

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE NORTHERN DISTRICT OF OHIO  
3                   EASTERN DIVISION

4   IN RE:   NATIONAL                   :   MDL No. 2804  
5            PRESCRIPTION OPIATE       :  
6   LITIGATION                        :   Case No. 17-md-2804  
7                                       :  
8   APPLIES TO ALL CASES           :   Hon. Dan A. Polster  
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12                                      HIGHLY CONFIDENTIAL  
13                   SUBJECT TO FURTHER CONFIDENTIALITY REVIEW

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<p>1 A P P E A R A N C E S</p> <p>2 On behalf of Plaintiffs</p> <p>3 WAGSTAFF &amp; CARTMELL, LLP</p> <p>4 BY: TOM ROTTINGHAUS, ESQUIRE</p> <p>5 4740 Grand Avenue, Suite 300</p> <p>6 Kansas City, Missouri 64112</p> <p>7 816.701.1100</p> <p>8 trottinghaus@wcllp.com</p> <p>9 On behalf of Defendant AmerisourceBergen Drug Corporation</p> <p>10 (By Phone/Livestream)</p> <p>11 REED SMITH LLP</p> <p>12 BY: SHANA E. RUSSO, ESQUIRE</p> <p>13 136 Main Street, Suite 250</p> <p>14 Princeton Forrestal Village</p> <p>15 Princeton, New Jersey 08540</p> <p>16 609.514.5959</p> <p>17 srusso@reedsmith.com</p> <p>18 On behalf of Defendant Cardinal Health, Inc.</p> <p>19 PIETRAGALLO GORDON ALFANO BOSICK &amp; RASPANTI, LLP</p> <p>20 BY: JENNIFER BOURIAT, ESQUIRE</p> <p>21 One Oxford Centre, 38th Floor</p> <p>22 301 Grant Street</p> <p>23 Pittsburgh, Pennsylvania 15219</p> <p>24 412.263.2000</p> <p>25 jhb@pietragallos.com</p> <p>On behalf of Defendants Endo Pharmaceuticals, Endo Health Solutions and Par Pharmaceuticals</p> <p>(By Phone/Livestream)</p> <p>ARNOLD &amp; PORTER KAYE SCHOLER LLP</p> <p>BY: ERICA I. GUTHRIE, ESQUIRE</p> <p>601 Massachusetts Avenue, NW</p> <p>Washington, DC 20001-37453</p> <p>202.942.5743</p> <p>erica.guthrie@arnoldporter.com</p>	<p>1 * I N D E X *</p> <p>2 GREGORY CARLSON PAGE</p> <p>3 EXAMINATION BY MR. ROTTINGHAUS 8, 246, 252</p> <p>4 EXAMINATION BY MR. BARNES 217, 251</p> <p>5 * INDEX OF HBC-CARLSON EXHIBITS *</p> <p>6 NO. DESCRIPTION PAGE</p> <p>7 Exhibit 1 Greg Carlson LinkedIn profile 13</p> <p>8 Exhibit 2 Giant Eagle Retail Operations - Pharmacy Operations org chart as of November 13, 2014 HBC_MDL00002216 45</p> <p>9 Exhibit 3 CFR Part 1301.74 from DEA website P1.47 - P1.47.2 52</p> <p>10 Exhibit 4 DEA Dear Registrant 6/12/12, 6/12/12, 12/27/07, 2/7/07, 9/27/06 letters ABDCMDL00269683 - 00269694 89</p> <p>11 Exhibit 5 Ohio State Board of Pharmacy Meeting Minutes November 2-4, 2009 101</p> <p>12 Exhibit 6 Ohio State Board of Pharmacy Meeting Minutes December 5-7, 2011 101</p> <p>13 Exhibit 7 Email chain, 1/30/12, from A. Zelaski to G. Carlson, et al., subject: RE: HBC phone number HBC_MDL00090001 - 00090004 107</p> <p>14 Exhibit 8 Meeting invitation for 5/24/13, from J. Millward to G. Carlson, et al., subject: CSMP Questionnaire Complete Response HBC_MDL00144314 - 00144322 110</p> <p>15 Exhibit 9 Email, 8/22/13, from S. Voyten to J. Millward, et al., subject: FW: CVS News Story HBC_MDL00154265 - 00154266 114</p>
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<p>1 A P P E A R A N C E S (Continued)</p> <p>2 On behalf of Defendant HBC Service Company</p> <p>3 MARCUS &amp; SHAPIRA, LLP</p> <p>4 BY: JOSHUA KOBRIN, ESQUIRE</p> <p>5 ROBERT M. BARNES, ESQUIRE</p> <p>6 One Oxford Centre, 35th Floor</p> <p>7 Pittsburgh, Pennsylvania 15219</p> <p>8 412.471.3490</p> <p>9 jkobrin@marcus-shapira.com</p> <p>10 rbarnes@marcus-shapira.com</p> <p>11 On behalf of Defendant McKesson Corporation</p> <p>12 COVINGTON &amp; BURLING, LLP</p> <p>13 BY: AMBER CHARLES, ESQUIRE</p> <p>14 One CityCenter</p> <p>15 850 Tenth Street, NW</p> <p>16 Washington, DC 20001-4956</p> <p>17 202.662.5807</p> <p>18 acharles@cov.com</p> <p>19 On behalf of Defendant Walmart</p> <p>20 (By phone/Livestream)</p> <p>21 JONES DAY, LLP</p> <p>22 BY: CHRISTOPHER MARKHAM, ESQUIRE</p> <p>23 100 High Street</p> <p>24 21st Floor</p> <p>25 Boston, Massachusetts 02110-1781</p> <p>617.960.3939</p> <p>cmarkham@jonesday.com</p> <p>On behalf of Deponent</p> <p>DICKIE MCCAMEY &amp; CHILCOTE, P.C.</p> <p>BY: JEFFREY J. WETZEL, ESQUIRE</p> <p>Two PPG Place, Suite 400</p> <p>Pittsburgh, Pennsylvania 15222</p> <p>412.392.5617</p> <p>jwetzeldmclaw.com</p> <p>Also present</p> <p>Frank Stanek, legal videographer</p>	<p>1 * INDEX OF HBC-CARLSON EXHIBITS (Continued) *</p> <p>2 NO. DESCRIPTION PAGE</p> <p>3 Exhibit 10 Email chain, 4/18/14, from M. Bianco to G. Carlson, subject: Re: 35 missing tote HBC_MDL00135668 - 00135670 116</p> <p>4 Exhibit 11 Email chain, 4/23/14, from Tammy SSD to B. Snider, subject: Re: Missing HBC Tote MCKMDL0059574 - 0059578 118</p> <p>5 Exhibit 12 Email chain, 8/11/15, from R. Shaheen to G. Carlson, subject: RE: Procedural inconsistency HBC_MDL00063991 - 00063992 121</p> <p>6 Exhibit 13 Email chain, 11/25/13, from T. Roahrig to J. Millward, subject: FW: Daily HBC Suspicious Purchasing Report - 11/13/13 HBC_MDL00094599 - 0094600 128</p> <p>7 Exhibit 14 Email chain, 8/20/15, from G. Carlson to J. Jenson, et al., subject: FW: Thrifty White Notes HBC_MDL00069566 - 00069571 134</p> <p>8 Exhibit 15 Email chain, 10/23/08, from S. Cook to G. Carlson, subject: Giant Eagle CSMP Thresholds MCKMDL00628660 - 00628673 153</p> <p>9 Exhibit 16 Email chain, 2/23/09, from S. Cook to D. Gustin, subject: RE: Giant Eagle CSMP Thresholds MCKMDL00628614 - 00628616 157</p> <p>10 Exhibit 17 Daily HBC Controls report, 10/31/13 HBC_MDL00002348 160</p> <p>11 Exhibit 18 Email chain, 7/30/13, from 1217 Pharmacy Team Leader to G. Carlson, subject: RE: Oxycodone Threshold HBC_MDL000174163 166</p>

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Page 7	Page 9
<p>1 PROCEEDINGS</p> <p>2 -----</p> <p>3 MR. ROTTINGHAUS: We are now on the</p> <p>4 record. My name is Frank Stanek. I'm the</p> <p>5 videographer for Golkow Litigation Services.</p> <p>6 Today's date is January 8, 2019, and the time is</p> <p>7 9:06 a.m.</p> <p>8 This video deposition is being held in</p> <p>9 Pittsburgh, Pennsylvania, In Re: National</p> <p>10 Prescription Opiate Litigation, for the United</p> <p>11 States District Court, for the Northern District</p> <p>12 of Ohio, Eastern Division.</p> <p>13 The deponent is Greg Carlson.</p> <p>14 Will counsel please identify themselves.</p> <p>15 MR. ROTTINGHAUS: Tom Rottinghaus on</p> <p>16 behalf of plaintiff.</p> <p>17 MS. BOURIAT: Jennifer Bouriat on behalf</p> <p>18 of Cardinal.</p> <p>19 MS. CHARLES: Amber Charles on behalf of</p> <p>20 McKesson.</p> <p>21 MR. KOBRIN: Josh Kobrin, Marcus &amp;</p> <p>22 Shapira, on behalf of HBC Service Company.</p> <p>23 MR. WETZEL: Jeffrey Wetzel for</p> <p>24 Mr. Carlson personally.</p> <p>25 MR. BARNES: Robert Barnes, Marcus &amp;</p>	<p>1 A. Yes.</p> <p>2 Q. I'm going to be asking you a series of</p> <p>3 questions today about your involvement or your</p> <p>4 capacity in those institutions. There are going</p> <p>5 to be several documents we're going to talk about</p> <p>6 as well. I've taken the liberty of marking a few</p> <p>7 documents that we will be talking about that I</p> <p>8 think you have in front of you.</p> <p>9 You understand you've just taken an oath to</p> <p>10 tell the truth?</p> <p>11 A. Yes.</p> <p>12 Q. And this is the same type of testimony</p> <p>13 you would give as if you were in a courtroom;</p> <p>14 correct?</p> <p>15 A. Yes.</p> <p>16 Q. It's my understanding you may not be</p> <p>17 able to be present at the time of trial, so you</p> <p>18 understand that this testimony you give today is</p> <p>19 being videotaped and may be played for a jury at</p> <p>20 the time of trial if you are not available to be</p> <p>21 there in person?</p> <p>22 A. Yes.</p> <p>23 Q. It's going to be very important for me</p> <p>24 to make sure that you and I understand each other</p> <p>25 today. If I ask you any questions that you don't</p>

<p style="text-align: right;">Page 10</p> <p>1 understand, I want you to please stop me, let me  2 know you don't understand it, and I'll do my best  3 to rephrase that question. Okay?  4 A. Okay.  5 Q. Similarly, it won't be my intention to  6 interrupt you before you finish an answer.  7 However, if I do so unintentionally, please let me  8 know you have not finished your answer. We'll  9 stop. We'll give you a chance to finish your  10 answer. Okay?  11 A. Okay.  12 Q. You're doing a great job of audiblizing  13 you answers. One thing I may ask you to do at  14 times is to give an audible answer because  15 sometimes in conversations, we just nod our heads  16 or say "uh-huh" or "huh-uhn," but I may need to  17 ask you to give me a "yes" or "no" answer at  18 times. Okay?  19 A. Okay.  20 Q. I don't intend to be rude to you if I do  21 that. It's just that we need to have a clear  22 record. Okay?  23 A. Okay.  24 Q. It's my understanding you at this time,  25 point in time, no longer work for the Giant Eagle</p>	<p style="text-align: right;">Page 12</p> <p>1 Q. And you had a chance to do that?  2 A. Yes.  3 Q. I suspect that some of those documents  4 we will be talking about today. It won't be my  5 intention to put anything in front of you that's  6 not, to the best of my understanding, a genuine  7 document that was given to us by the company. But  8 if at any point in time you don't understand what  9 a document is or you need to take a few more  10 minutes to look at it, you let us and we'll give  11 you a chance to do that. Okay?  12 A. Okay.  13 Q. Can you give us an approximation as to  14 how much time in terms of hours you have spent  15 getting ready for this testimony today?  16 A. I would say roughly eight hours.  17 Q. I don't get to hear what you talked  18 about. But you obviously had a chance to talk to  19 your attorney and meet with your attorney?  20 A. Uh-huh.  21 Q. "Yes"?  22 A. Yes. I met with the attorneys.  23 Q. And have you also had the opportunity or  24 taken time to try to speak to anyone who is still  25 at Giant Eagle with respect to any questions or</p>
<p style="text-align: right;">Page 11</p> <p>1 HBC system; is that correct?  2 A. Correct.  3 Q. However, you are here with counsel for  4 HBC; is that correct?  5 A. Correct.  6 Q. Now, I don't get to find out and I'm not  7 asking you what you have talked with counsel about  8 in preparation for this deposition, but I would  9 like to know or get a general understanding of  10 what you have reviewed irrespective of  11 correspondence from your counsel in preparation  12 for the deposition.  13 For instance, I'm wondering if you've looked  14 at prior emails from your time at the company or  15 any other documents.  16 A. I have.  17 Q. Let's kind of break it down. First of  18 all, you've had some time to prepare to give your  19 testimony today; correct?  20 A. Yes.  21 Q. And I'm assuming that in preparation for  22 your testimony, you did want to look at some  23 documents that went back to the timeframe in which  24 you were involved at HBC?  25 A. Yes.</p>	<p style="text-align: right;">Page 13</p> <p>1 thoughts you may have had as you got ready for the  2 deposition?  3 A. I've not spoken with anybody at Giant  4 Eagle about the deposition.  5 Q. And I know sometimes they're thought of  6 interchangeably, but the same question with  7 respect to anyone who worked at the HBC warehouse,  8 have you spoken to them in preparation for this  9 deposition?  10 A. Not in preparation for this deposition.  11 (HBC-Carlson Exhibit 1 was marked.)  12 BY MR. ROTTINGHAUS:  13 Q. Let's take a look for a minute at  14 Exhibit 1, which I have passed out to your counsel  15 as well. I will represent to you that this was  16 not given to me by the company, but I actually  17 went to LinkedIn, a source that a lot of us use  18 these days; right?  19 A. Correct.  20 Q. And I typed in your name, and Exhibit 1  21 is a document that came up. The first thing I  22 would like to do is make sure that Exhibit 1 --  23 and, if we could, I might ask if we can split the  24 page so we can get the second page of Exhibit 1 on  25 the screen as well for you. It may be on the</p>

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1 screen right in front of you. You can look at the  
2 hard copy or any screen you'd like to look at.  
3 They should all be the same thing.  
4 Take a minute, if you need to, to look at  
5 this, but does Exhibit 1 appear to you to be a  
6 document that indeed reflects you, Greg Carlson,  
7 personally and some of the background you have had  
8 in various capacities in your career?  
9 A. Yes.  
10 Q. Is Exhibit 1, to the best of your  
11 knowledge, a document you prepared and then in  
12 some way uploaded or submitted to LinkedIn?  
13 A. Yes.  
14 Q. Tell us a little bit about what LinkedIn  
15 is.  
16 A. LinkedIn, I guess it would be considered  
17 a social media site but more geared towards  
18 business, businesspeople and ways to connect with  
19 them, find other people at other companies. I  
20 just kind of look at it more as a social media  
21 source.  
22 Q. Some of us probably still refer to  
23 documents with our background as résumés. And in  
24 some ways, does the LinkedIn social media site  
25 allow you to submit your résumé or your past work

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1 experience?  
2 A. Yes. Most people kind of lay their page  
3 out as a résumé, which is kind of how mine is laid  
4 out.  
5 Q. Do you recall how long ago you prepared  
6 Exhibit 1?  
7 A. Laying it out -- I've been on LinkedIn  
8 for, I would say, over five years, probably closer  
9 to ten. I'm not sure exactly when. And I've made  
10 edits along the way. The most recent formatting  
11 was probably -- I added the UPMC position. So it  
12 was probably right around that time when I made  
13 the most recent adjustment.  
14 Q. In looking at the first page of  
15 Exhibit 1, under experience for UPMC, I believe it  
16 says from March 2017 to the present, and then it  
17 says one year, 11 months.  
18 So it would appear to reflect at least from  
19 the time you last put information in here up to  
20 the present day; is that correct?  
21 A. Correct.  
22 Q. And is it correct that you still do hold  
23 the title of director of pharmacy MTM services at  
24 UPMC Health Plan?  
25 A. Yes.

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1 Q. Do you work in the Pittsburgh area?  
2 A. Yes. I work in downtown Pittsburgh.  
3 Q. If we could go to the second page of  
4 this document, I'm going to start where it says  
5 Director of Pharmacy Sourcing. Actually, forgive  
6 me. I'm going to go kind of towards the bottom.  
7 First of all, the education section, it  
8 appears that you obtained your Pharm.D. degree in  
9 1998?  
10 A. Yes.  
11 Q. And then from 1998 until 2007, tell us  
12 what you did.  
13 A. So in 1998 -- actually, in '97 I  
14 received my bachelor's degree in pharmacy. So I  
15 was a pharmacist, went on for another year. So  
16 from '97 I worked as a pharmacist for Osco Drug in  
17 Chicago, part of the Jewel-Osco chain, as a staff  
18 pharmacist.  
19 And in 1999 I moved to Pittsburgh. I think  
20 the end of March of 1999 moved to Pittsburgh and  
21 started working with Giant Eagle at that point in  
22 time as a pharmacist in the stores, in a role that  
23 they called floater pharmacist where you would  
24 work at any store that needed help covering  
25 vacation times, maternity leaves, anything like

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1 that. So I kind of worked all through the south  
2 region of Pittsburgh as a pharmacist.  
3 Q. To make sure I understand, that would be  
4 in the retail Giant Eagle stores if someone came  
5 to the pharmacy with a prescription or needed one  
6 filled, you would be the person we usually refer  
7 to as the pharmacist in the store?  
8 A. Correct. And in 2000 I started a role  
9 as pharmaceutical care coordinator -- it's more of  
10 a clinical role -- out of the stores, office  
11 based, corporate office based, and would go out  
12 and visit with patients at their store that they  
13 shopped at to review their medications.  
14 So it was more of a sit-down typically in the  
15 cafeteria area of the store, and we would review  
16 their medications, looking for any kind of drug  
17 interactions, drugs they don't need, making  
18 recommendations to the physician based on their  
19 profile and educate them on their disease states.  
20 So I did that for roughly about a year or so.  
21 At that point, there was a position open for  
22 manager of pharmacy services, and that role -- I  
23 applied for that role, and I got it. It was a  
24 promotion. And that role consisted of  
25 manufacturer relations, vendor relations,



<p style="text-align: right;">Page 18</p> <p>1 wholesaler relationship, and also dealt with                  2 marketing and other just tasks at corporate level.                  3 Q. Do you recall what year you took that                  4 position?                  5 A. 2001. At some point in 2001 is when I                  6 started that role and was in that role until the                  7 one that is listed on LinkedIn as district leader,                  8 pharmacy district leader. At the time I was in                  9 that role, it was called pharmacy specialist.                  10 It's the same thing as the pharmacy district                  11 leader today.                  12 Q. When you had the position as pharmacy                  13 specialist, which is now known as pharmacy                  14 district leader, did you work in the corporate                  15 office?                  16 A. It was more on the road based. So I                  17 covered a region. So I was responsible for                  18 anywhere from 25 to 35 stores at any given time.                  19 So I was assigned a region and was responsible for                  20 all the operations of the pharmacies for those                  21 stores.                  22 Q. Did you at any point in time have a                  23 region of Ohio as part of your region?                  24 A. No. I never covered any Ohio stores.                  25 Q. And from 2001 to 2007, you held that</p>	<p style="text-align: right;">Page 20</p> <p>1 checklist. Is that something you prepared or was                  2 that something that was prepared at corporate?                  3 A. There was a corporate checklist that you                  4 would follow.                  5 Q. This may sound like a silly question,                  6 but why does it make sense to have a checklist                  7 when you're going to various stores and going                  8 through --                  9 A. It just gave you something to, you                  10 know -- it created a routine for you to do.                  11 Q. Created a routine for you as the PDL or                  12 the pharmacy rep at that time?                  13 A. Yeah, yes.                  14 Q. And also for the pharmacies to                  15 understand what the expectations were for them as                  16 well?                  17 A. Yes.                  18 Q. And that's typical in most businesses;                  19 is that correct?                  20 A. Yes.                  21 Q. And then you, I think, mentioned that                  22 you wanted to make sure they were up to date and                  23 correctly doing their record keeping.                  24 A. Yes.                  25 Q. In a pharmacy it's important to keep</p>
<p style="text-align: right;">Page 19</p> <p>1 title?                  2 A. 2005 to 2007 I was the pharmacy district                  3 leader. So I was the manager of pharmacy services                  4 from 2001 to 2005.                  5 Q. And then on Exhibit 1, where pharmacy                  6 district leader is listed from September 2005 to                  7 March 2007, there appear to be about five bullet                  8 point summaries of what your position entailed.                  9 A. Yes.                  10 Q. Is that correct? You don't have to go                  11 through this in any particular order, but, again,                  12 I'm particularly interested in what you were doing                  13 in terms of monitoring pharmacy practices at that                  14 point in time.                  15 A. Well, we would do inspections of the                  16 pharmacies on a regular basis. We'd come in and                  17 we had a checklist, and we would go through that                  18 to make sure that the pharmacies were following                  19 proper procedure, all their paperwork was in line,                  20 the record keeping was in line.                  21 We would monitor the stores' sales, their                  22 labor spend and look at all of that, and we'd                  23 review that with the pharmacy leader at that                  24 store.                  25 Q. You mentioned that you would use a</p>	<p style="text-align: right;">Page 21</p> <p>1 accurate records?                  2 A. Yes.                  3 Q. Why is that?                  4 A. Well, certain requirements are in place                  5 for state and federal laws. So I was just                  6 checking in on that.                  7 Q. And then you mentioned, I think, that                  8 along the checklist, you wanted to check and make                  9 sure they were following proper procedures.                  10 A. Yes. We would look at things like their                  11 workflow, how they were set up, were they                  12 following what we recommended for the workflow of                  13 the store. We would monitor the lines, how long                  14 were the lines. It could indicate whether or not                  15 they were following proper workflow procedures.                  16 It was a multitude of things.                  17 Q. Again, we don't need to get into the                  18 details of them. But these workflow procedures                  19 you're talking about, I assume those were                  20 procedures that were somewhere written in writing                  21 to give guidance to your pharmacists?                  22 A. I'm not certain. I can't remember as                  23 far as what was in writing or not back in the 2005                  24 timeframe. I can't really answer that one.                  25 Q. Was it -- and if you can't tell us,</p>

<p style="text-align: right;">Page 22</p> <p>1 that's fine. Was it your experience that when you                  2 worked with Giant Eagle, there were indeed some                  3 policies that the company expected their                  4 pharmacists to follow?                  5 A. Yes.                  6 Q. And some of those policies were actually                  7 written in writing to give guidance to the                  8 pharmacists?                  9 A. Yes.                  10 Q. And not only for the pharmacists, but                  11 it's your understanding and memory at the time                  12 that there were also policies or procedures, if                  13 that's what you would prefer to call them, that                  14 were in writing that dealt not only with pharmacy                  15 services, but other aspects of the company as                  16 well?                  17 A. Yes. There were many policies in place                  18 across the whole organization.                  19 Q. That's been consistent with your entire                  20 career. You've seen companies that have policies                  21 in place; correct?                  22 A. Yes.                  23 Q. And policies help provide guidance to                  24 employees of the company?                  25 A. Generally, yes. There's policies. We</p>	<p style="text-align: right;">Page 24</p> <p>1 correct?                  2 A. Yes.                  3 Q. And it's hard work?                  4 A. It wasn't easy.                  5 Q. Any pharmacist, as you said I think, is                  6 expected to use clinical judgment at times when                  7 they practices as a pharmacist.                  8 A. Yes.                  9 Q. However, I think you also said that                  10 there are times where guidelines might be written.                  11 They could be procedures. And you correct me if                  12 I'm wrong, but guidelines might be written to                  13 allow a pharmacist who is using his or her                  14 professional judgment to also understand what some                  15 basic expectations are for any particular                  16 scenario?                  17 MR. BARNES: Object to form.                  18 THE WITNESS: I would just need more                  19 specific on the question.                  20 BY MR. ROTTINGHAUS:                  21 Q. Well, you tell me what type of                  22 guidelines you remember being in place for                  23 pharmacists between 2005 and 2007.                  24 MR. BARNES: Tom, I'd just remind you                  25 that HBC didn't distribute any controlled</p>
<p style="text-align: right;">Page 23</p> <p>1 have procedures. We have guidelines. So there's                  2 different classifications of what I would kind of                  3 consider a policy versus a guideline.                  4 Q. Sure. How do you differentiate between                  5 a policy and a guideline?                  6 A. Policies tend to be more HR driven. You                  7 know, they're meant from an HR perspective to be                  8 utilized versus guidelines. Within the profession                  9 of pharmacy, you provide guidelines to the                  10 pharmacists on how we would like them to operate.                  11 But there are, you know, professional judgment                  12 that will kind of supersede some of that.                  13 Q. Because any pharmacist who practices may                  14 have gone to school for a long time and learned a                  15 lot of information to help them develop expertise                  16 as a pharmacist?                  17 A. Yes.                  18 MR. BARNES: Object to the form to the                  19 extent you're asking him to speculate as to any                  20 pharmacist.                  21 BY MR. ROTTINGHAUS:                  22 Q. I don't want you to speculate. We'll                  23 focus on what you know. It's your understanding                  24 you personally went to school for a long time to                  25 earn the degree that you have in pharmacy;</p>	<p style="text-align: right;">Page 25</p> <p>1 substance before November 2009.                  2 MR. ROTTINGHAUS: I'm just trying to                  3 build a little foundation. I understand the                  4 objection.                  5 THE WITNESS: I can't recall. I mean,                  6 over the years I was with Giant Eagle, I know we                  7 had different procedures in place. This year                  8 particular, I couldn't tell you what exactly was                  9 in place. It's a very difficult question to                  10 answer looking back that far.                  11 BY MR. ROTTINGHAUS:                  12 Q. Now, you just used the term procedures,                  13 and I really want to just make sure we're on the                  14 same page with what we're talking about.                  15 I think you mentioned that you consider                  16 policies to typically be HR, which I assume you                  17 mean human resources, driven.                  18 A. Yes.                  19 Q. Then you mentioned procedures and                  20 guidelines. Do you differentiate between                  21 procedures and guidelines?                  22 A. I mean, they're similar. I mean, some                  23 documents may call it one thing, one may call it                  24 another.                  25 Q. In your role as pharmacy district leader</p>

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1 up through March of 2007, and, again, when we talk  
2 about part of your role being monitor of pharmacy  
3 practices, in any way did you have responsibility  
4 to review any written practices, whether they be  
5 called policies, procedures or guidelines, that  
6 were in writing for the pharmacists at that point  
7 in time?  
8 MR. BARNES: Object to the form. Lack  
9 of relevance.  
10 THE WITNESS: Can you ask the question  
11 again?  
12 BY MR. ROTTINGHAUS:  
13 Q. Sure. It may help if I just make sure  
14 we know where we're looking. I'm still looking on  
15 Exhibit 1 in your role as pharmacy district leader  
16 from September 2005 to March of 2007.  
17 A. Yes.  
18 Q. And I'm looking at the last I'll call it  
19 bullet point where it says, "Visit pharmacies  
20 within region regularly to monitor pharmacy  
21 practices." I just want to make sure I completely  
22 understand.  
23 When you talk about monitoring the pharmacy  
24 practices, I think you mentioned that you would go  
25 over record keeping, that you would have a

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1 checklist or go through checklists with the  
2 pharmacy teams; is that correct?  
3 A. Yeah. That's a very generic term. It  
4 was just in there basically to say I would  
5 oversee -- make sure they're following the process  
6 that we want them to, their customer service is up  
7 to par, their quality is up to par. So that  
8 encompasses really everything under pharmacy  
9 practices.  
10 Q. And during that timeframe, were you also  
11 in any way responsible for reviewing written  
12 policies, procedures or guidelines that existed  
13 for the pharmacies?  
14 MR. BARNES: Same objection.  
15 THE WITNESS: When you say review, do  
16 you mean read? Because, I mean, reading, yes.  
17 Formulating at this time, no.  
18 BY MR. ROTTINGHAUS:  
19 Q. That's a good point. It's my  
20 understanding you were not responsible all the way  
21 up to 2007 for formulating any policies,  
22 procedures or guidelines.  
23 A. Correct, in that position.  
24 Q. However, I think what you're saying is  
25 you may have at times reviewed certain written

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1 policies, procedures or guidelines, but sitting  
2 here today, you couldn't tell us exactly what you  
3 did?  
4 A. No.  
5 Q. And sitting here today, is it fair to  
6 say that you can't really even recall what  
7 specific policies, procedures or guidelines were  
8 in writing up through March of 2007 for Giant  
9 Eagle?  
10 MR. BARNES: Same objection.  
11 THE WITNESS: Yeah. I couldn't tell you  
12 specific policies from 2005 or through 2007.  
13 BY MR. ROTTINGHAUS:  
14 Q. We're going to jump forward here in just  
15 a second to your new position you took in April of  
16 2007.  
17 Do you feel like we have covered all of the  
18 responsibilities and duties you fulfilled for  
19 Giant Eagle as a pharmacy district leader from  
20 September 2005 through March 2007 just generally?  
21 MR. BARNES: Are you saying in addition  
22 to what's written on his LinkedIn profile?  
23 MR. ROTTINGHAUS: Yeah.  
24 BY MR. ROTTINGHAUS:  
25 Q. I mean, obviously, we're looking at your

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1 LinkedIn profile. I'm not asking for details. I  
2 understand it was several years ago and you  
3 probably don't remember every detail of every day,  
4 and I certainly don't expect that.  
5 A. Yeah. I mean, generally speaking, yes,  
6 there were other things that would pop up day to  
7 day. If anything happened at the store, it was  
8 something I had to deal with.  
9 Q. And correct me if I'm wrong. I think  
10 you said there were maybe, give or take, but  
11 around 25 to 35 stores you were responsible for  
12 during that timeframe?  
13 A. Yes.  
14 Q. Were they in the greater Pittsburgh  
15 area?  
16 A. Most of them were in the southern region  
17 of Pittsburgh, and that actually extended down to  
18 Morgantown, West Virginia. But then there were  
19 times where I would cover other regions if there  
20 was a leave of absence. I do recall one time I  
21 had the Beaver Valley area. But it was generally  
22 around the Pittsburgh market.  
23 Q. It's my understanding that Giant Eagle  
24 during the timeframe when you worked there had  
25 pharmacies in five different states.



<p style="text-align: right;">Page 30</p> <p>1 A. Yeah, up to five at the time I worked 2 there. 3 Q. Pennsylvania? 4 A. Ohio, West Virginia, Maryland and 5 Indiana. 6 Q. During this timeframe we've been talking 7 about, 2005 to 2007, you were primarily covering 8 stores in Pennsylvania but maybe some stores in 9 West Virginia? 10 A. Yeah, West Virginia as well. 11 Q. Any other states? 12 A. No. 13 Q. Let's move right above this area to your 14 title of director of pharmacy sourcing from 15 April 2007 to April 2012. If it's hard to read on 16 that hard copy, again, it's on the screen if 17 that's helpful to you. 18 I see that you have also kind of listed some 19 bullet points that give a general summary for what 20 you did during that timeframe. 21 A. Yes. 22 Q. If you can just in your own words 23 describe for us what your position entailed as 24 director of pharmacy sourcing from April of 2007 25 to April of 2012.</p>	<p style="text-align: right;">Page 32</p> <p>1 controlled substances at various times obviously 2 today. Specifically, I'm going to be talking 3 about hydrocodone combination products. Is that a 4 term that's familiar with you? 5 A. Yes. 6 Q. Sometimes they're referred to, I think, 7 as HCPs for short; is that correct? 8 A. Yeah. I mean, I never referred to it 9 that way, but I guess you could go there. 10 Q. I'll try not to use that term. If I do, 11 feel free to remind me you don't know what I'm 12 talking about. But I'm probably going to be -- 13 A. HCP meaning hydrocodone combination 14 products? 15 Q. Yes, or combination products. 16 A. Combination products. Okay. 17 Q. I think it's probably the same thing 18 we're talking about. 19 In April 2007 when you negotiated this 20 wholesaler contract, do you know whether that also 21 entailed hydrocodone combination products? 22 A. It would have been included in the 23 general pricing structure. 24 Q. I should have told you. You probably 25 know this. At times people may have a concern</p>
<p style="text-align: right;">Page 31</p> <p>1 A. In that role, the primary role was to 2 find cost savings through sourcing. So it was 3 including anything that the pharmacy would 4 purchase. It could include supplies such as bags, 5 vials, anything like that, or medications. So it 6 could be through our wholesaler contract. There 7 was pricing established within each contract. So 8 I was involved in those negotiations as well as 9 finding any other ways to save money on any 10 product. 11 Q. I see that -- first of all, the point 12 you mentioned that you negotiated the wholesaler 13 contract to save \$16 million annually, was that as 14 part of a team, or was that just you individually 15 who was involved in that negotiation? 16 A. There were people involved other than 17 myself. I was kind of like the point person, but 18 we did have a team working on that. 19 Q. Do you recall whether that contract 20 entailed, among other things, controlled 21 substances? 22 A. With the wholesaler we were purchasing 23 controlled substances. So it would entail that, 24 nothing broken out specifically for that. 25 Q. We're going to be talking about</p>	<p style="text-align: right;">Page 33</p> <p>1 about a question I ask, and it may be well 2 founded, but nobody is trying to interrupt us, but 3 I'll try to let them finish their objection. If 4 you can, let them try to get their objection in as 5 well. 6 A. Okay. 7 Q. I see in the second bullet you state 8 that you at that time at least, it says, opened 9 generic prescription drug warehouse for pharmacy 10 with estimated annual savings of over \$20 million 11 by purchasing direct from the manufacturer. 12 I'm assuming, and I could be incorrect, but 13 I'm assuming this is the HBC warehouse. 14 A. Yes. That would be the HBC warehouse. 15 Q. Were you involved in starting that 16 warehouse from the ground up? 17 A. Yes. 18 Q. Who else at the company was involved? 19 A. Well, there were several people 20 involved. It was kind of a team project to get it 21 up and running. 22 MR. BARNES: Excuse me. Tom, for 23 clarification, you mean as a brand new warehouse 24 opening for the first time and doing any business 25 whatsoever or just with respect to</p>

<p style="text-align: right;">Page 34</p> <p>1 pharmaceuticals?</p> <p>2 MR. ROTTINGHAUS: That's a good</p> <p>3 question. Let's clarify.</p> <p>4 BY MR. ROTTINGHAUS:</p> <p>5 Q. When did HBC warehouse open, not just</p> <p>6 with respect to controlled substances or</p> <p>7 pharmaceuticals, but when did that warehouse open</p> <p>8 up?</p> <p>9 A. I don't know the specific dates. It</p> <p>10 goes back. It predates me. We purchased actually</p> <p>11 FoxMeyer. My understanding, it was a FoxMeyer</p> <p>12 warehouse that McKesson acquired. And we ran it</p> <p>13 from there as HBC at that point. I think that was</p> <p>14 pre-2000. I don't have specific dates.</p> <p>15 So I know HBC had been operating for a while</p> <p>16 before. All we did -- when I say open generic</p> <p>17 warehouses, we isolated a spot within the</p> <p>18 warehouse, secured it and utilized that. It was</p> <p>19 just an add-on to the warehouse.</p> <p>20 Q. And when you say secured it, you're</p> <p>21 talking about putting security controls in place</p> <p>22 because, among other things, some of the</p> <p>23 medications that were going to be coming into and</p> <p>24 out of that warehouse were controlled substances?</p> <p>25 A. Not at this time. When we opened it, it</p>	<p style="text-align: right;">Page 36</p> <p>1 to 2012. It states that you negotiated with brand</p> <p>2 drug manufacturers to secure funding for</p> <p>3 pharmacist education, in-store promotions and</p> <p>4 patient compliance programs.</p> <p>5 Do you remember what patient compliance</p> <p>6 programs you were involved in?</p> <p>7 A. I'm trying to remember. It probably</p> <p>8 didn't happen that much in that timeframe. That</p> <p>9 was more we would do medication adherence letters.</p> <p>10 We call them refill reminder letters. That was</p> <p>11 probably more towards the manager pharmacy</p> <p>12 services role. That bullet may be a little bit</p> <p>13 misplaced there as far as that goes.</p> <p>14 The only compliance programs were we would</p> <p>15 send letters on behalf of -- the manufacturers</p> <p>16 would help, you know, fund the cost of the letter</p> <p>17 going out, but it was really for the patients'</p> <p>18 behalf. It was typically like maintenance</p> <p>19 medications, like a cholesterol medication,</p> <p>20 something like that.</p> <p>21 Q. Let's go to that third bullet where it</p> <p>22 says \$20 million -- I'm sorry -- second bullet</p> <p>23 that talks about an estimated annual savings of</p> <p>24 over \$20 million.</p> <p>25 Did you in any way have an opportunity to</p>
<p style="text-align: right;">Page 35</p> <p>1 was really finding a location that was isolated</p> <p>2 because even prescription drugs need to be</p> <p>3 isolated securely, whether it's Amoxicillin or</p> <p>4 Simvastatin, cholesterol medications. So it was</p> <p>5 really just finding a location that had secure</p> <p>6 walls, doors, that we could have security access</p> <p>7 to so we knew who was going to go in that specific</p> <p>8 room. At the time we opened, that was our</p> <p>9 thought.</p> <p>10 Q. Do you recall when HBC first started</p> <p>11 distributing hydrocodone combination products?</p> <p>12 A. I believe, from recollection, it was</p> <p>13 2009. It was towards the end of 2009. So it was</p> <p>14 either the end of 2009 or early 2010 after we</p> <p>15 received our DEA license.</p> <p>16 Q. And then it continued to do so until</p> <p>17 2014 as I understand it.</p> <p>18 A. Correct.</p> <p>19 Q. So when you were first involved in</p> <p>20 starting the HBC warehouse, it predated the DEA</p> <p>21 license to distribute hydrocodone combination</p> <p>22 products, among other things?</p> <p>23 A. Yes.</p> <p>24 Q. Let's go to that last bullet under your</p> <p>25 title of director of pharmacy sourcing from 2007</p>	<p style="text-align: right;">Page 37</p> <p>1 somehow calculate that it was close to \$20 million</p> <p>2 in savings, or is that just a complete estimate by</p> <p>3 you?</p> <p>4 A. Well, it's an estimate rounded number.</p> <p>5 We would -- when we bid out our products, that's</p> <p>6 what was calculated as the savings number from</p> <p>7 what we were currently paying to what was offered</p> <p>8 on the direct price.</p> <p>9 Q. Let me ask you this: Between 2009 and</p> <p>10 2012, while you were in that position as director</p> <p>11 of pharmacy sourcing, is it your understanding</p> <p>12 that, give or take, by having the generic</p> <p>13 prescription drug warehouse, you were able to help</p> <p>14 the company save approximately \$20 million a year?</p> <p>15 A. Yes. The cost savings was roughly that</p> <p>16 much.</p> <p>17 Q. And in part was that cost savings based</p> <p>18 on the fact that you were able to have the company</p> <p>19 purchase medications directly from the</p> <p>20 manufacturers versus going through distributors?</p> <p>21 A. Correct.</p> <p>22 Q. Because at least at some point in time,</p> <p>23 HBC began acting as a distributor of medications?</p> <p>24 A. Yes.</p> <p>25 Q. And that includes a distributor of</p>

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1 controlled substances at least as of 2009 or early  
2 2010?  
3 A. Yes.  
4 Q. And during that timeframe, it's your  
5 understanding, and I think the record will reflect  
6 it was later 2009, but from 2009 through the time  
7 you finished in 2012 as director of pharmacy  
8 sourcing, HBC was indeed distributing hydrocodone  
9 combination products?  
10 A. Yes.  
11 Q. So part of the savings would have been  
12 based by the move to being a distributor of  
13 hydrocodone combination products for the Giant  
14 Eagle pharmacies?  
15 MR. BARNES: Object to form. Asking him  
16 to speculate as to what a specific drug would  
17 contribute or not contribute to the overall  
18 warehouse.  
19 THE WITNESS: I was going to say I don't  
20 know how much that drug contributed to the  
21 \$20 million. It's just an overall number.  
22 BY MR. ROTTINGHAUS:  
23 Q. Sure. Presumably, there was some  
24 savings recognized by distributing hydrocodone  
25 combination products versus purchasing them from

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1 an outside distributor; is that right?  
2 MR. BARNES: Object to form. Asking him  
3 to speculate.  
4 THE WITNESS: I can't answer that  
5 specifically.  
6 BY MR. ROTTINGHAUS:  
7 Q. What would be the benefit to Giant Eagle  
8 or HBC warehouse in being a distributor of any  
9 medication if it wasn't recognizing a cost  
10 savings?  
11 A. There are other benefits as far as  
12 controlling the overall supply chain. So just  
13 making sure that we had sufficient supply at any  
14 given time to support the stores no matter what  
15 drug it was. So there was added benefits to  
16 warehousing besides the cost savings.  
17 Q. Of course, one of the important things  
18 for any company would be the cost savings as well?  
19 A. Sure.  
20 Q. Did you personally go into the HBC  
21 warehouse physically on a regular basis between  
22 2007 and 2012?  
23 A. I visited I couldn't say regularly. I  
24 couldn't answer specifically, but I definitely  
25 would visit from time to time.

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1 Q. When you went to work each day, you  
2 weren't going into that warehouse every day?  
3 A. No.  
4 Q. Are you able to tell us approximately  
5 how many times you visited the HBC warehouse  
6 during your entire tenure with the Giant Eagle  
7 company?  
8 MR. BARNES: Object to form to the  
9 extent it asks for anything prior to 2009.  
10 THE WITNESS: I can't give you a number,  
11 an accurate number. I probably couldn't even  
12 estimate it at this point.  
13 BY MR. ROTTINGHAUS:  
14 Q. Let's focus between 2009 and 2014. Do  
15 you think you visited the HBC warehouse on at  
16 least a yearly basis one time a year?  
17 A. I would say a yearly basis, yes.  
18 Q. What would be the purpose for going  
19 physically to the warehouse?  
20 A. Sometimes it was just to meet with the  
21 team there to see how things were going, to see if  
22 anything needed to be changed. Anything could  
23 have come up as far as do we need additional  
24 shelving, do we need new shelving, are we going to  
25 try new processes at the warehouse and they wanted

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1 to either show us or talk to us about it.  
2 So it could have been any kind of meeting  
3 such as that.  
4 Q. Do you remember any particular  
5 individuals who you considered to be a part of the  
6 team at HBC warehouse?  
7 A. Yes. I do recall some folks there that  
8 were -- that I would just talk to on a regular  
9 basis. Andy Zalewski was early on one of the team  
10 members I would talk to. I don't remember when he  
11 left. Christy Hart was one of the main people  
12 there, too, that I would talk to. And then Walt  
13 Durr and Matt Rogos. At another point in time,  
14 Matt Rogos was another individual.  
15 Q. Do you remember between 2009 and 2014  
16 what Walter Durr's title was for HBC?  
17 A. I don't know specifically during that  
18 time because I know Walt had moved. There were  
19 some changes in the wholesale or the warehouse  
20 level team members where they -- I know Walt got  
21 additional responsibilities at one point in time.  
22 So I don't remember at that time what Walt's  
23 position was. I'm assuming he was in charge of  
24 HBC, but I can't answer that accurately.  
25 Q. What about Mr. Rogos, do you remember

<p style="text-align: right;">Page 42</p> <p>1 what he did at HBC?</p> <p>2 A. There was a point in time where he came</p> <p>3 in after Andy left. Again, timeline-wise, I'm a</p> <p>4 little fuzzy on when Matt was there. So he was in</p> <p>5 charge of the facility at one point in time, the</p> <p>6 HBC facility. And then, you know, Christy kind of</p> <p>7 reported to him.</p> <p>8 Q. I understand Giant Eagle was a big</p> <p>9 company, and it looks like you wore different hats</p> <p>10 for the company, for lack of a better term, at</p> <p>11 different points in time.</p> <p>12 I'm not trying to make you an expert in</p> <p>13 something you don't feel like you have the</p> <p>14 expertise to tell us about. So if I ask you</p> <p>15 questions about HBC or some aspect of HBC that you</p> <p>16 don't feel like you're the right person to answer</p> <p>17 it, I respect that. Just let us know.</p> <p>18 A. Okay.</p> <p>19 Q. Having said that, I'm going to ask you</p> <p>20 some questions to see if you do know.</p> <p>21 Between 2009 and 2014, do you believe you</p> <p>22 were the person who overall oversaw operations at</p> <p>23 HBC?</p> <p>24 A. I did not oversee operations at HBC.</p> <p>25 Q. At any point in time all the way up to</p>	<p style="text-align: right;">Page 44</p> <p>1 someone would contact with a question about, hey,</p> <p>2 can we distribute this medication to store number</p> <p>3 whatsoever?</p> <p>4 A. There were times where questions would</p> <p>5 come up about a specific order and it was asked.</p> <p>6 So they could ask me that question.</p> <p>7 Q. I'm trying in my mind to get a better</p> <p>8 understanding of, for lack of a better term, a</p> <p>9 chain of command if there was one. Let me ask you</p> <p>10 this. If you can tell me, great. If you can't,</p> <p>11 just let me know.</p> <p>12 Between 2009 and 2012, do you believe there</p> <p>13 was an individual at Giant Eagle who was in charge</p> <p>14 and had the ultimate supervisory authority at HBC?</p> <p>15 A. Yes. There was somebody in charge at</p> <p>16 HBC.</p> <p>17 Q. Was it you?</p> <p>18 A. From a supervisory perspective?</p> <p>19 Q. Yes.</p> <p>20 A. No. I did not do any team member</p> <p>21 reviews for anybody at HBC. I wouldn't be</p> <p>22 involved in disciplining anybody at HBC. Nobody</p> <p>23 reported to me from an organizational structure.</p> <p>24 Q. You said it better than I asked it. I</p> <p>25 appreciate that.</p>
<p style="text-align: right;">Page 43</p> <p>1 2016, do you believe you were the person who</p> <p>2 oversaw operations at HBC?</p> <p>3 A. Not at an operations level, no.</p> <p>4 Q. At any level?</p> <p>5 A. I was involved with decision making</p> <p>6 regarding HBC but not from an operational</p> <p>7 standpoint.</p> <p>8 Q. Correct me if I'm wrong, but as I</p> <p>9 understand it, because you were involved in</p> <p>10 contracts that were being executed with various</p> <p>11 vendors or manufacturers, you would have been</p> <p>12 involved at least indirectly with what HBC had</p> <p>13 coming into its warehouse and going out of its</p> <p>14 warehouse?</p> <p>15 A. Yes. As far as product choice, yeah, it</p> <p>16 would come from me or my team as far as that goes.</p> <p>17 Q. But in terms of day-to-day operations,</p> <p>18 were you the person who someone at HBC would call</p> <p>19 if they needed supervisory authority to do</p> <p>20 something?</p> <p>21 A. If there was a question regarding</p> <p>22 something related to the store level, then it</p> <p>23 could come up through me.</p> <p>24 Q. What if it related to HBC as the</p> <p>25 distributor at that level, were you the person</p>	<p style="text-align: right;">Page 45</p> <p>1 Who was the individual who would review</p> <p>2 performance of individuals at HBC?</p> <p>3 A. I can't answer that question. I'm not</p> <p>4 certain.</p> <p>5 Q. With respect to if there was a need to</p> <p>6 discipline someone at HBC warehouse for any</p> <p>7 particular reason, do you know who that person</p> <p>8 would be?</p> <p>9 A. It would have gone up through their</p> <p>10 chain of command at HBC, the org chart at any date</p> <p>11 in time. So it would depend on who was in charge</p> <p>12 of the facility. Like I said, who was in charge</p> <p>13 did change a couple times through the years, but I</p> <p>14 couldn't tell you when or who exactly. So I think</p> <p>15 it would have to be -- I don't think I can answer</p> <p>16 that one for you accurately.</p> <p>17 Q. That's fine. I have to confess to you I</p> <p>18 don't have an org chart for HBC. I do have one, I</p> <p>19 think, for at least as of 2014 for Giant Eagle.</p> <p>20 And maybe that's the same.</p> <p>21 (HBC-Carlson Exhibit 2 was marked.)</p> <p>22 BY MR. ROTTINGHAUS:</p> <p>23 Q. That's Exhibit 2, and we'll look at that</p> <p>24 in a minute, but if you want to look at that to</p> <p>25 answer any of these questions, you can feel free</p>



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1 to do so. We'll come back to it though.  
 2 Were you the individual who oversaw HBC's  
 3 compliance as a distributor of controlled  
 4 substances between 2009 and 2014?  
 5 A. Well, the compliance did fall under me  
 6 as far as we did have a team looking at compliance  
 7 also, but, I mean, ultimately, as far as the -- if  
 8 you want to refer to an exhibit at all. But at  
 9 this point in time, compliance would have fallen  
 10 under me.  
 11 Q. Between 2009 and 2014?  
 12 A. This is '14, but yes.  
 13 Q. And you can feel free to look at an  
 14 organizational chart if you need to, but I'm not  
 15 asking you to go off that. I'm really wanting to  
 16 know what Mr. Carlson remembers. If you need to  
 17 look at that again, that's fine.  
 18 So let me make sure I understand because  
 19 compliance is kind of a general term, isn't it?  
 20 A. Right.  
 21 Q. What does compliance mean to you?  
 22 A. Well, following all the rules and  
 23 regulations put in place, whether it's federal  
 24 government laws or state laws.  
 25 Q. So as I understand it, whatever state a

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1 warehouse that distributes medications is in, it  
 2 has to comply with that state's laws?  
 3 A. Correct.  
 4 Q. And then as you mentioned, there are  
 5 also often laws at a federal level or regulations  
 6 at a federal level that must be followed as well?  
 7 A. Yes.  
 8 Q. And you probably have some familiarity  
 9 with what's known as the Controlled Substances  
 10 Act?  
 11 A. Yes.  
 12 Q. And is it your understanding that the  
 13 Controlled Substances Act has some requirements  
 14 that distributors of controlled substances must  
 15 follow regardless of what state they're practicing  
 16 in?  
 17 A. Yes.  
 18 Q. You probably got some of the basic  
 19 background about the Controlled Substances Act in  
 20 pharmacy school.  
 21 A. Yes.  
 22 Q. And then you probably learned some of  
 23 that on the job as well?  
 24 A. Yes.  
 25 Q. Have you individually ever attended any

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1 conferences that, to the best of your  
 2 understanding, focused primarily on the duties of  
 3 a distributor of controlled substances to comply  
 4 with the Controlled Substances Act?  
 5 A. I attended many conferences. I don't  
 6 recall a specific one regarding that topic.  
 7 Q. When we talk about compliance, are you  
 8 in part referencing the duty of HBC warehouse to  
 9 comply with the Controlled Substances Act?  
 10 A. Yes.  
 11 Q. And you said between 2009 and 2014,  
 12 compliance for HBC warehouse fell under you?  
 13 A. Yes. It would have fallen under me.  
 14 Q. That entire time?  
 15 A. Again, different points in time there  
 16 were different layers. So there were multiple  
 17 people I would be I would consider responsible  
 18 for, but ultimately up until 2014, I was, yes,  
 19 ultimately responsible for it.  
 20 Q. The reason I ask is because, again, it's  
 21 not a big deal, but just in looking at how you  
 22 described your duties at least between 2007 and  
 23 2012 as the director of pharmacy sourcing, I  
 24 didn't see any reference to overseeing compliance,  
 25 whether it be at HBC or at Giant Eagle. That's

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1 fine.  
 2 But is it your memory that even between 2007  
 3 and 2012, you were the person in charge of  
 4 compliance for HBC warehouse?  
 5 MR. BARNES: Object to form.  
 6 Go ahead.  
 7 THE WITNESS: Well, I mean, was it in my  
 8 description? No. Was I responsible? Yeah. I  
 9 was the one involved in making sure that  
 10 everything was in line, following all the  
 11 regulations in place. I was the one that did a  
 12 lot of the research. Others helped me with that.  
 13 But, yeah, I was the one responsible for.  
 14 BY MR. ROTTINGHAUS:  
 15 Q. In terms of primary responsibility,  
 16 you're saying it was you, but you also had others  
 17 who assisted you?  
 18 A. Yeah. Responsibilities for something  
 19 like that roll all the way up to the top, so yes.  
 20 Q. Between 2009 and 2014, who did you  
 21 report to, as you say, rolled up to the top?  
 22 A. 2009 it would have been Randy Heiser,  
 23 and up until I think 2013, it may have then been  
 24 Brett Merrell. I'm not sure when Randy left and  
 25 Brett came on board.



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1 Q. What were the titles that Randy and  
2 Brett each respectively held at the company?  
3 A. Randy was vice-president of pharmacy,  
4 and Brett was senior vice-president of pharmacy.  
5 Q. What did you do as the person in charge  
6 of compliance at HBC warehouse between 2009 and  
7 2014 to make sure that HBC warehouse was indeed  
8 complying with all state and federal laws?  
9 MR. BARNES: Object to form. That's a  
10 pretty broad question.  
11 THE WITNESS: Yeah. What do you mean  
12 what did I do?  
13 BY MR. ROTTINGHAUS:  
14 Q. I'm wondering what you -- so compliance  
15 was one of the responsibilities that you're  
16 telling us that you had for HBC warehouse between  
17 2009 and 2014 as I understand it; is that right?  
18 A. Right.  
19 Q. You had people working under you --  
20 A. Yes.  
21 Q. -- that were also in charge of  
22 compliance on a day-by-day basis?  
23 A. Yes.  
24 Q. Is that right?  
25 A. Certain people had different

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1 responsibilities that followed compliance, yes.  
2 Q. Let's focus on making sure that HBC  
3 warehouse as a distributor of controlled  
4 substances was complying with the Controlled  
5 Substances Act. Okay?  
6 A. Right.  
7 Q. Who did you rely on under you to make  
8 sure that HBC warehouse was indeed complying with  
9 its responsibilities as a distributor pursuant to  
10 the Controlled Substances Act?  
11 MR. BARNES: Object to form. Tom, there  
12 are a lot of -- that's a broad question. What  
13 portions of the Controlled Substances Act are you  
14 talking about?  
15 BY MR. ROTTINGHAUS:  
16 Q. Let's go through that. You understand  
17 that the Controlled Substances Act places various  
18 responsibilities on manufacturers, distributors  
19 and pharmacies; right?  
20 A. Yes.  
21 Q. And because you've worked in a pharmacy,  
22 you understand how some of those responsibilities  
23 apply to a pharmacy directly doing retail  
24 pharmacy?  
25 A. Right.

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1 Q. And then you understand that HBC was a  
2 distributor of controlled substances; correct?  
3 A. Yes.  
4 (HBC-Carlson Exhibit 3 was marked.)  
5 BY MR. ROTTINGHAUS:  
6 Q. I have a hard time with that word.  
7 Let's refer for a minute to Exhibit 3, but we're  
8 going to come back to Exhibit 1. Okay?  
9 A. Okay.  
10 Q. Let's look at Exhibit 3, which is  
11 general number 010. So that you know,  
12 Mr. Carlson, I'm going to reference sometimes  
13 general numbers. It's really just for the person  
14 who's putting all of these up on the screen for  
15 us. Okay?  
16 Do you have Exhibit 3 in front of you?  
17 A. Yes.  
18 Q. I think this is a portion, not the  
19 entirety, of the Code of Federal Regulations  
20 dealing with registration of manufacturers,  
21 distributors and dispensers of controlled  
22 substances, and the specific section that  
23 Exhibit 3 references is a section you've probably  
24 heard of or referred to before, Section 1301.74.  
25 Are you familiar with this section?

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1 A. I'm sure I've read it at some point in  
2 time.  
3 Q. Specifically I'd like to direct your  
4 attention to subsection (b) of 1301.74.  
5 MR. BARNES: Tom, for the record, I'm  
6 going to object to this exhibit as being just one  
7 subpart of the security requirement in the Code of  
8 Federal Regulations. Not only have you just taken  
9 one part. You haven't given him the 1301.71 and  
10 the other regs of which this is a part of.  
11 BY MR. ROTTINGHAUS:  
12 Q. Are you with me?  
13 A. Yes.  
14 Q. I'm going to read subsection (b). You  
15 tell me if I've read it incorrectly. "The  
16 registrant shall design and operate a system to  
17 disclose to the registrant suspicious orders of  
18 controlled substances. The registrant shall  
19 inform the field division office of the  
20 Administration in his area of suspicious orders  
21 when discovered by the registrant. Suspicious  
22 orders include orders of unusual size, orders  
23 deviating substantially from a normal pattern and  
24 orders of unusual frequency."  
25 Did I read that correctly?

<p style="text-align: right;">Page 54</p> <p>1 A. Yes.</p> <p>2 Q. And have you seen this provision or</p> <p>3 requirement before?</p> <p>4 A. Like I said, I've read this before in</p> <p>5 the past. So, yes, I have seen it.</p> <p>6 Q. And is it your understanding that from</p> <p>7 2009 to 2014, that HBC warehouse had a duty to</p> <p>8 comply with this subsection?</p> <p>9 MR. BARNES: Object to form.</p> <p>10 THE WITNESS: We were following all the</p> <p>11 laws put in place.</p> <p>12 BY MR. ROTTINGHAUS:</p> <p>13 Q. Including this one?</p> <p>14 A. Including this one.</p> <p>15 Q. My question for you is: Who did you</p> <p>16 rely on at HBC to make sure that this specific</p> <p>17 provision was being followed?</p> <p>18 MR. BARNES: From 2009 to '14?</p> <p>19 MR. ROTTINGHAUS: Yes, from 2009 to</p> <p>20 2014.</p> <p>21 THE WITNESS: You can't really say one</p> <p>22 person. I mean, this was a system that we had put</p> <p>23 together that involved everybody. So we put a</p> <p>24 process in place to look for anything suspicious.</p> <p>25 That was found through reporting that we had in</p>	<p style="text-align: right;">Page 56</p> <p>1 the time.</p> <p>2 I don't recall any -- I couldn't tell you a</p> <p>3 specific example, but I know there were times</p> <p>4 where the warehouse team would ask us a question,</p> <p>5 and we would, you know, either validate it or tell</p> <p>6 them what to do, instruct them.</p> <p>7 BY MR. ROTTINGHAUS:</p> <p>8 Q. When you refer to the warehouse team,</p> <p>9 are you talking about the people physically at the</p> <p>10 HBC warehouse?</p> <p>11 A. Yes.</p> <p>12 Q. Now, Mr. Millward -- you know Joe</p> <p>13 Millward?</p> <p>14 A. Yes.</p> <p>15 Q. He has given testimony in this case as</p> <p>16 well. Is it your memory that Mr. Millward also</p> <p>17 worked under you at various points in time between</p> <p>18 2009 and 2014?</p> <p>19 A. Yes. Closer to 2013 -- it would have</p> <p>20 been 2014 through '16 actually was when he was</p> <p>21 specifically under me.</p> <p>22 Q. Prior to 2014 -- well, let me ask you</p> <p>23 this. We've been provided with what's Exhibit 2,</p> <p>24 and that is a corporate chart for Giant Eagle as</p> <p>25 of November 13, 2014.</p>
<p style="text-align: right;">Page 55</p> <p>1 place, or it could be found through just even</p> <p>2 someone at the warehouse that saw something</p> <p>3 suspicious was told, educated and instructed to</p> <p>4 notify somebody if it ever occurred.</p> <p>5 So not only were they systematic from a</p> <p>6 reporting standpoint, but there was also, you</p> <p>7 know, human elements that were added to it. So it</p> <p>8 wasn't one person. It was everybody was vigilant</p> <p>9 about looking for this as soon as we opened this</p> <p>10 part of the warehouse up. It was a very high</p> <p>11 priority for us to make sure that nothing got out</p> <p>12 that was even questionable at all.</p> <p>13 BY MR. ROTTINGHAUS:</p> <p>14 Q. How much time do you believe you were</p> <p>15 spending on a weekly basis dealing with making</p> <p>16 sure that HBC warehouse was complying with its</p> <p>17 responsibilities as a distributor between 2009 and</p> <p>18 2014?</p> <p>19 MR. BARNES: Object to form.</p> <p>20 THE WITNESS: I couldn't answer that</p> <p>21 back to 2009. I do know that I was hyperfocused</p> <p>22 on the process. Any time we started a new</p> <p>23 process, I was hyperfocused on it until everything</p> <p>24 was in place and going. So I closely monitored</p> <p>25 it. We encouraged any questions to be asked at</p>	<p style="text-align: right;">Page 57</p> <p>1 On the left-hand side down towards the</p> <p>2 bottom, it says -- there's a box that says manager</p> <p>3 compliance -- I'm sorry -- let me go back up --</p> <p>4 senior manager pharmacy, quality and compliance,</p> <p>5 Joe Millward.</p> <p>6 A. Yes.</p> <p>7 Q. And then under Joe, there are three</p> <p>8 boxes. The one in the middle states manager of</p> <p>9 compliance, George Chunderlik.</p> <p>10 A. Yes.</p> <p>11 Q. Was George Chunderlik also a part of the</p> <p>12 team that assisted you in making sure that HBC</p> <p>13 warehouse was complying with all federal</p> <p>14 regulations under the Controlled Substances Act</p> <p>15 between 2009 and 2014?</p> <p>16 A. Yes.</p> <p>17 Q. Do you remember whether George worked in</p> <p>18 that capacity during the entire time from 2009 to</p> <p>19 2014?</p> <p>20 A. I'm not sure the entire timeframe, so I</p> <p>21 can't confirm that. But I know he was one of the</p> <p>22 team members that was involved in compliance.</p> <p>23 Q. Would it be fair to say that</p> <p>24 Mr. Millward was one of the team members in charge</p> <p>25 of compliance?</p>

<p style="text-align: right;">Page 58</p> <p>1 A. Yes.</p> <p>2 Q. And would it be fair to say that</p> <p>3 Mr. Chunderlik was one of the team members in</p> <p>4 charge of compliance?</p> <p>5 A. Yes.</p> <p>6 Q. Do you remember any other individuals</p> <p>7 you looked to and relied upon between 2009 and</p> <p>8 2014 to assist you in making sure that HBC</p> <p>9 warehouse was complying with its responsibilities</p> <p>10 under the Controlled Substances Act?</p> <p>11 MR. BARNES: At the warehouse do you</p> <p>12 mean?</p> <p>13 MR. ROTTINGHAUS: Yes, sir.</p> <p>14 THE WITNESS: Specifically at the</p> <p>15 warehouse?</p> <p>16 BY MR. ROTTINGHAUS:</p> <p>17 Q. No, not just physically at the</p> <p>18 warehouse. Because as I understand it, there were</p> <p>19 people physically at the warehouse but people also</p> <p>20 at Giant Eagle corporate or somewhere else who</p> <p>21 might have some responsibility for the warehouse;</p> <p>22 is that right?</p> <p>23 A. Yes. So 2009 -- I would say yes. Andy</p> <p>24 Zalewski was one person involved and then Walter</p> <p>25 even as well were responsible for anything that</p>	<p style="text-align: right;">Page 60</p> <p>1 2009 and 2014; is that right?</p> <p>2 MR. BARNES: Object to the form.</p> <p>3 If you know.</p> <p>4 BY MR. ROTTINGHAUS:</p> <p>5 Q. Tell us if you did.</p> <p>6 A. A hundred percent of my time was not</p> <p>7 dedicated to compliance.</p> <p>8 Q. It just couldn't be, right, because you</p> <p>9 were doing other things as well?</p> <p>10 A. Any organization has a team in place</p> <p>11 that's responsible for different components of it.</p> <p>12 Q. And in order for the team to function</p> <p>13 properly, there needs to be good communication</p> <p>14 between the team members?</p> <p>15 A. Correct.</p> <p>16 Q. Needs to be trust in the team members?</p> <p>17 A. Correct.</p> <p>18 Q. And there needs to be in some way a</p> <p>19 delineated understanding as to who on the team is</p> <p>20 doing what to achieve any goal; correct?</p> <p>21 A. Correct.</p> <p>22 Q. My question for you right now is between</p> <p>23 2009 and 2014, did anyone have a responsibility</p> <p>24 for deciding if and, if so, what policies,</p> <p>25 procedures or guidelines should be placed in</p>
<p style="text-align: right;">Page 59</p> <p>1 went on at the warehouse.</p> <p>2 Q. Now, between 2009 and 2014, were you the</p> <p>3 individual who was deciding if and, if so, what</p> <p>4 policies should be placed in writing to guide</p> <p>5 individuals at HBC warehouse regarding any duties</p> <p>6 to comply with the Controlled Substances Act?</p> <p>7 A. I would have been working in conjunction</p> <p>8 with the team at HBC to put that together. Again,</p> <p>9 since they didn't report directly through my</p> <p>10 structure, it was more of a team effort. So I</p> <p>11 would be the, you know, person doing the research,</p> <p>12 and then they would assist me in putting any</p> <p>13 policies together at that level.</p> <p>14 Q. And when we refer to a team, what you're</p> <p>15 saying is there are different individuals working</p> <p>16 together to try to achieve a common goal or</p> <p>17 several different common goals; is that right?</p> <p>18 A. Yes. We leveraged our legal team for</p> <p>19 sure. Any time we did anything with licensure,</p> <p>20 there were questions about this. So I'm certain</p> <p>21 the legal team was involved as well.</p> <p>22 Q. Because you were involved not only in</p> <p>23 compliance, but also in negotiating contracts and</p> <p>24 overseeing contracts, you could not devote</p> <p>25 100 percent of your time to compliance between</p>	<p style="text-align: right;">Page 61</p> <p>1 writing to guide HBC warehouse on its duties to</p> <p>2 comply with the Controlled Substances Act?</p> <p>3 MR. BARNES: Object to form.</p> <p>4 THE WITNESS: I couldn't tell you who</p> <p>5 the one person was in charge of policies during</p> <p>6 that one period of time.</p> <p>7 BY MR. ROTTINGHAUS:</p> <p>8 Q. Was it you?</p> <p>9 A. Not policy writing, no.</p> <p>10 Q. And when we say policies right now, if</p> <p>11 you're referring to not policies but procedures, I</p> <p>12 probably need to know. I'm kind of using that</p> <p>13 term to refer to policies or procedures. Do you</p> <p>14 understand that?</p> <p>15 A. No. Policy to me is a different --</p> <p>16 Q. Understood. I think you said before</p> <p>17 that to you, policies dealt more with HR.</p> <p>18 Procedures or guidelines dealt more with</p> <p>19 operations; is that right?</p> <p>20 A. Right, correct.</p> <p>21 Q. So I'm talking about policies or</p> <p>22 procedures or guidelines. Between 2009 and 2014,</p> <p>23 who had responsibility for deciding if and, if so,</p> <p>24 what policies, procedures or guidelines should be</p> <p>25 put in writing to guide HBC warehouse on its</p>

<p style="text-align: right;">Page 62</p> <p>1 duties to comply with the Controlled Substances  2 Act?</p> <p>3 MR. BARNES: Object to form.</p> <p>4 THE WITNESS: The procedures that were  5 put in place specifically were handled by HBC team  6 members. That organizational structure there  7 would put their procedures together. I didn't  8 write their procedures up.</p> <p>9 My responsibility was to make sure that  10 whatever they had in place was complying with the  11 regulations. So I couldn't tell you who was  12 responsible for writing anything down on paper.</p> <p>13 BY MR. ROTTINGHAUS:</p> <p>14 Q. They were part of your team though;  15 right?</p> <p>16 A. Well, the HBC folks had their own  17 procedures. So it was the procedures manual. I  18 don't know -- I couldn't tell you looking back to  19 2009 what the procedure manual was that they had  20 in place. In the pharmacy retail level, we had  21 procedures on like training materials. Here's how  22 you open and close a pharmacy. They had  23 procedures.</p> <p>24 I'm sure we had procedures at HBC. I  25 didn't -- it wasn't my responsibility to write</p>	<p style="text-align: right;">Page 64</p> <p>1 Q. That's what you would have expected;  2 right?</p> <p>3 A. Correct.</p> <p>4 Q. You had a good team? Did you have a  5 good team?</p> <p>6 MR. BARNES: Object to form.</p> <p>7 THE WITNESS: It's a subjective  8 question.</p> <p>9 BY MR. ROTTINGHAUS:</p> <p>10 Q. Well, can you give me your answer?  11 A. I liked my team. I did.</p> <p>12 Q. And did you have confidence that your  13 team would take the steps that it needed to take  14 to make sure that HBC warehouse was complying with  15 its duties under the Controlled Substances Act  16 between 2009 and 2014?</p> <p>17 A. Absolutely.</p> <p>18 MR. BARNES: Tom, we've gone a little  19 bit over an hour.</p> <p>20 Do you need to take a break?</p> <p>21 THE WITNESS: I could take a break.</p> <p>22 MR. ROTTINGHAUS: That's fine.</p> <p>23 THE VIDEOGRAPHER: Off the record 10:08.  24 (Recess from 10:08 a.m. to 10:32 a.m.)  25 THE VIDEOGRAPHER: On the record 10:32.</p>
<p style="text-align: right;">Page 63</p> <p>1 their operational procedures. My responsibility  2 was to ensure that what they did there was  3 compliant with the regulations, with the  4 Controlled Substances Act.</p> <p>5 Q. When you say you are sure that they did  6 write procedures, I'm referring right now and I  7 think you are, too, to compliance.</p> <p>8 But is it your testimony that you're  9 confident that your team would have known what  10 procedures it needed to put in writing between  11 2009 and 2014 to guide the overall team at HBC on  12 how to comply with the Controlled Substances Act?</p> <p>13 MR. BARNES: Object to form.</p> <p>14 THE WITNESS: I can't recall anything  15 specific around procedures that were written down.  16 I can't remember any kind of -- like I said, I'm  17 certain that we had procedures at HBC. I couldn't  18 tell you what they were.</p> <p>19 BY MR. ROTTINGHAUS:</p> <p>20 Q. And when you say you're certain you had  21 procedures at HBC, are you talking about  22 procedures that in some ways addressed compliance  23 with the duties of HBC as a distributor of  24 controlled substances?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 65</p> <p>1 BY MR. ROTTINGHAUS:</p> <p>2 Q. Mr. Carlson, we took a short break and  3 had a bit of technical difficulty. But are you  4 ready to proceed?</p> <p>5 A. Yes.</p> <p>6 Q. We were talking before a little bit  7 about the team that you had under you at Giant  8 Eagle and specifically the team you had under you  9 and you relied upon to assist you in making sure  10 that HBC warehouse was in compliance with the  11 regulations and requirements of the Controlled  12 Substances Act between 2009 and 2014.</p> <p>13 You remember that discussion?</p> <p>14 A. Yes.</p> <p>15 Q. If you could give me names, I'd like to  16 know who you considered to be a part of that team  17 that you referenced.</p> <p>18 A. Well, we had already discussed people on  19 the compliance teams, so George and Joe. We  20 had -- the team included people at HBC like Andy  21 Zalewski, Walt Durr. Let's see if there's any  22 other folks. Just general -- the buying team was  23 involved in the process. So it was a very  24 all-encompassing process all the way down to the  25 store level. So even the store level folks had</p>



<p style="text-align: right;">Page 66</p> <p>1 responsibilities within the whole HBC process.</p> <p>2 Q. If you had a specific question that you</p> <p>3 need answered, whether HBC had a policy dealing</p> <p>4 with compliance between 2009 and 2014, is there a</p> <p>5 specific individual out of those people you've</p> <p>6 referenced that you would probably contact first?</p> <p>7 MR. BARNES: Object to form. Definition</p> <p>8 of compliance.</p> <p>9 THE WITNESS: Yeah. If I had a question</p> <p>10 about procedures at HBC in 2009, it would have</p> <p>11 been Andy Zalewski that I would have asked the</p> <p>12 question to.</p> <p>13 BY MR. ROTTINGHAUS:</p> <p>14 Q. What was Andy's title at that point in</p> <p>15 time?</p> <p>16 A. I don't know his exact title, but he</p> <p>17 came -- he was already part of the HBC warehouse</p> <p>18 team, management team, and he kind of came over as</p> <p>19 part of the opening of the pharmacy portion around</p> <p>20 2007. And then I don't know the timeframe when</p> <p>21 Andy left.</p> <p>22 Q. Did you hire Andy?</p> <p>23 A. I did not.</p> <p>24 Q. Did you hire George?</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 68</p> <p>1 hired Joe. Joe got promoted from a pharmacy</p> <p>2 district leader to manager of quality, and then he</p> <p>3 evolved that position into quality and compliance.</p> <p>4 Q. And Anthony had the position -- did he</p> <p>5 have the position of VP of pharmacy operations</p> <p>6 before you?</p> <p>7 A. Yes.</p> <p>8 Q. So even when Anthony had the position of</p> <p>9 VP of pharmacy operation before you took that</p> <p>10 position, it's your belief and testimony that you</p> <p>11 were the person in charge of making sure that HBC</p> <p>12 was complying with the Controlled Substances Act</p> <p>13 as a distributor between 2009 and 2014?</p> <p>14 A. I was the point person to make sure that</p> <p>15 the whole system was working appropriately</p> <p>16 including -- I mentioned that it wasn't just an</p> <p>17 HBC facility situation. It was the entire closed</p> <p>18 Giant Eagle self-distribution process.</p> <p>19 It was greater than just that one portion of</p> <p>20 it. So my responsibility was to make sure all the</p> <p>21 components were working in conjunction with one</p> <p>22 another.</p> <p>23 Q. Correct me if I'm wrong. I don't mean</p> <p>24 to misstate your testimony. But it's my</p> <p>25 understanding that you believe that if a policy</p>
<p style="text-align: right;">Page 67</p> <p>1 Q. What about Joe?</p> <p>2 A. No.</p> <p>3 Q. Joe, Mr. Millward, testified that there</p> <p>4 was a decision to part ways with Giant Eagle at a</p> <p>5 point in time. And forgive me. I don't remember</p> <p>6 the specific date. I believe it was around 2016.</p> <p>7 I think he mentioned that that mutual</p> <p>8 decision may have been made along with you; is</p> <p>9 that correct?</p> <p>10 A. Yes.</p> <p>11 Q. I don't want to get into specifics of</p> <p>12 everything from a personal standpoint, but I have</p> <p>13 one specific question.</p> <p>14 That is: Was the decision to part ways made</p> <p>15 in any way due to a belief or a perception by you</p> <p>16 that he was not fulfilling his duties as manager</p> <p>17 of compliance?</p> <p>18 A. No, no, not as manager of compliance,</p> <p>19 senior manager of quality and compliance.</p> <p>20 Q. Forgive me. I keep using the wrong</p> <p>21 title.</p> <p>22 Do you remember when he became senior</p> <p>23 manager, quality and compliance?</p> <p>24 A. I don't remember the date. He was</p> <p>25 reporting to Anthony Mollica at the time. Anthony</p>	<p style="text-align: right;">Page 69</p> <p>1 needed to be put in place between 2009 and 2014,</p> <p>2 someone on the team would do so?</p> <p>3 A. If a policy needed to be created, we'd</p> <p>4 review it as a team with legal. Depending on the</p> <p>5 question at hand, we would get legal involvement</p> <p>6 and then implement any kind of policy or</p> <p>7 procedures, yes.</p> <p>8 Q. Let me focus in a little bit more. If</p> <p>9 there was a specific question as to whether a</p> <p>10 policy should be put in place to guide or address</p> <p>11 how HBC warehouse would comply with the</p> <p>12 requirements of the Controlled Substances Act</p> <p>13 between 2009 and 2014, it's my understanding that</p> <p>14 you're not aware of a particular individual on the</p> <p>15 compliance side that would be responsible for</p> <p>16 starting that; is that correct?</p> <p>17 MR. BARNES: Object to form. Are you</p> <p>18 asking about a written policy or --</p> <p>19 MR. ROTTINGHAUS: Written policy.</p> <p>20 THE WITNESS: We had a team that would</p> <p>21 develop -- that developed written policies.</p> <p>22 BY MR. ROTTINGHAUS:</p> <p>23 Q. That's what I'm trying to get at, is who</p> <p>24 the individuals were on that team that developed</p> <p>25 the written policies.</p>



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1 A. Well, I can't speak -- I can speak to  
 2 the pharmacy team. The pharmacy corporate and  
 3 retail pharmacy teams involved George and Joe from  
 4 a -- putting together any kind of documentation.  
 5 Q. George and Joe?  
 6 A. George and Joe.  
 7 Q. And to make sure I'm not mistaken, when  
 8 you say the retail side, you're also talking about  
 9 HBC warehouse as well?  
 10 A. Well, again, the whole -- I viewed it as  
 11 the whole system. We had the pharmacies itself.  
 12 We had corporate. Then you had -- you know, HBC  
 13 was a portion of that system. So it's kind of  
 14 hard to break out anything involved there.  
 15 Q. I think I've got it now, but it sounds  
 16 as if there was a question or belief that a  
 17 written policy should be put in place that in any  
 18 way addressed compliance with the Controlled  
 19 Substances Act between 2009 and 2014, it's your  
 20 belief that it would likely be Joe Millward or  
 21 George Chunderlik that would take the lead in  
 22 doing so?  
 23 A. They would be involved. I can't say  
 24 take the lead. I think you'd probably have to say  
 25 that I would say that I would take the lead on

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1 leading the team to craft that.  
 2 Q. You mentioned before that you were  
 3 sometimes involved in doing research about  
 4 compliance with the Controlled Substances Act; is  
 5 that right?  
 6 A. Yes. We all kind of took part in  
 7 ensuring that.  
 8 Q. So if there were any provision of the  
 9 Act that you felt required more guidance to be  
 10 given to the team, including the HBC team, it  
 11 would most likely come from you and then you might  
 12 delegate that to George or Joe or someone else?  
 13 MR. BARNES: Object to form.  
 14 THE WITNESS: I'd need more specifics.  
 15 I mean, it's kind of more of an assumption. I  
 16 can't answer that specifically.  
 17 BY MR. ROTTINGHAUS:  
 18 Q. I'll try to give you a little more  
 19 specific example, and we'll go into it a little  
 20 further later.  
 21 You understand that there was a suspicious  
 22 order management policy put in place around 2014  
 23 in writing?  
 24 A. Timeline-wise I'm not sure exactly, but  
 25 I do believe there was a policy put in place, you

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1 know, like we mentioned policy versus procedures,  
 2 yes.  
 3 Q. Was that a policy or procedure that you  
 4 directed someone to create?  
 5 A. I cannot recall if I directed it or not.  
 6 Q. In fairness to you, I'm not trying to  
 7 just beat a dead horse about this, but you've told  
 8 us that you were the person in charge of making  
 9 sure that HBC was compliant with the Controlled  
 10 Substances Act between 2009 and 2014; right?  
 11 A. Yes. I was in charge of, involved in,  
 12 yeah. It was my responsibility to make sure that  
 13 we were following all rules and regulations.  
 14 Q. And what I'm really just trying to find  
 15 out is if or when a policy was created, is it your  
 16 belief and expectation that it would have started  
 17 with you and you would have directed someone to  
 18 create the policy or might it have come from  
 19 somebody else on the team who --  
 20 MR. BARNES: Objection. Asked and  
 21 answered several times now.  
 22 BY MR. ROTTINGHAUS:  
 23 Q. -- who suggested -- I didn't get my  
 24 question in, so maybe I'll start back over.  
 25 Was it your belief that if a policy was felt

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1 to be needed to guide the HBC warehouse team  
 2 regarding its compliance with the Controlled  
 3 Substances Act, that the directive to create such  
 4 a policy would have come from you or might it have  
 5 also come from someone else under you on the team?  
 6 MR. BARNES: Object to form.  
 7 THE WITNESS: I can't state that I was  
 8 the one responsible for creating every policy or  
 9 procedure. Like I said before, it was a team  
 10 effort. And if someone identified something that  
 11 needed to be clarified on paper in writing, then I  
 12 might not have been the one to initiate that, but  
 13 probably would have been brought in on the  
 14 discussion or process.  
 15 BY MR. ROTTINGHAUS:  
 16 Q. Between 2009 and 2014, if there was any  
 17 information communicated to HBC warehouse by the  
 18 DEA -- and do you know what I mean by the DEA?  
 19 A. Yes.  
 20 Q. -- would you expect that such  
 21 communication regarding compliance with the  
 22 Controlled Substances Act would in some way be  
 23 directed to you?  
 24 A. Yes, at least 2009 until, you know, I  
 25 became in this new role.

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1 Q. When you say this new role --  
2 A. I'm sorry. Vice-president of pharmacy  
3 operations. And even as senior director of  
4 pharmacy in the roles, again, there were layers  
5 involved. So other people kind of -- may have  
6 gotten a communication that I didn't get at some  
7 point in time.  
8 So I can't say I received every DEA  
9 notification throughout the whole time period, but  
10 at the beginning, I do know that I was getting  
11 copies of any DEA that went to HBC.  
12 Q. At any point in time, did you make it  
13 clear to your team that you expected to either  
14 have communications from the DEA routed to you or  
15 to be at least copied on any communications with  
16 the DEA as they related to HBC's compliance with  
17 the Controlled Substances Act?  
18 A. I don't recall asking specifically. I  
19 may have or maybe I assumed it would come my way.  
20 Q. You said you liked your team.  
21 A. Yes.  
22 Q. And when you say you assumed it would  
23 come your way, does that mean that you would have  
24 expected your team to make sure you were aware of  
25 any changes in the law or any requirements that

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1 HBC needed to follow?  
2 A. We had real good communication. So  
3 anybody could have received a document from the  
4 DEA that related to a change in the rules or regs.  
5 It might not have come directly to me, but I would  
6 have received a copy of it.  
7 Q. Did Mr. Millward physically go to the  
8 HBC warehouse as part of his job?  
9 A. I believe he did.  
10 Q. I mean on a day-to-day basis.  
11 A. Not on a day-to-day basis.  
12 Q. Did he actually work in the same office  
13 as you --  
14 A. Yes.  
15 Q. -- between 2009 and 2014?  
16 A. We were in the same office complex. He  
17 was in a different building at one point in time.  
18 Q. As I think I told you before,  
19 Mr. Millward has given testimony in this case as  
20 well. I assume you haven't had a chance to review  
21 his testimony.  
22 A. No.  
23 Q. I've had a chance to review it. And  
24 Mr. Millward testified that he was responsible for  
25 drafting policies and procedures for HBC warehouse

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1 as they related to compliance. And I'm  
2 paraphrasing his testimony on page 48 and 62.  
3 Would you agree with that?  
4 MR. BARNES: Object to form.  
5 THE WITNESS: Part of his job was to  
6 interact with anything regarding compliance.  
7 BY MR. ROTTINGHAUS:  
8 Q. So it might include drafting policies or  
9 procedures?  
10 A. He was involved in that. I would say  
11 there was not -- when we drafted policies, there  
12 was never one person just doing it. He may have  
13 drafted it as far as physically typing it on  
14 paper, but there was input from the whole team,  
15 the whole quality and compliance team.  
16 Q. Do you agree that Mr. Millward was  
17 responsible for monitoring the company's policies  
18 and procedures that were in place to try to  
19 prevent Giant Eagle and its employees from  
20 breaking any laws or regulations?  
21 A. Yes.  
22 Q. Now, at some point -- actually, let me  
23 back up.  
24 Again, when Mr. Millward -- when the decision  
25 was made for him to leave the company, it's your

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1 memory that that did not involve any concerns you  
2 had about his job as or his job responsibilities  
3 over compliance?  
4 A. It was more of a disagreement in the  
5 direction we were heading.  
6 Q. You talked a little bit before about in  
7 your position as pharmacy district leader where  
8 you would travel to different pharmacies and  
9 review checklists with them and record keeping and  
10 various policies; is that right?  
11 A. Yes.  
12 Q. Let me ask you this: Between 2009 and  
13 2014, with respect to any policies that were put  
14 in place in writing, there would be a reason for  
15 doing so; right?  
16 A. From that timeframe are you talking  
17 about retail level policies, any kind of policies  
18 and procedures?  
19 Q. Yeah. I'm really talking more about  
20 policies as they relate to HBC warehouse. I'm  
21 probably making this question more complicated  
22 than it needs to be.  
23 Some policies don't exist in writing. People  
24 just do things; right?  
25 A. Correct.

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1 Q. Some policies get put into writing; is  
 2 that right?  
 3 A. We would define policy as anything that  
 4 would be in writing.  
 5 Q. That's how I would kind of understand it  
 6 as well.  
 7 A. Yeah. So we had procedures though that  
 8 were, you know, not -- when I say writing, we had  
 9 a formal publication process for a policy.  
 10 Procedure was not -- it was in writing, but not  
 11 necessarily in a formalized published process.  
 12 People had it, but it wasn't like -- it was just  
 13 handled a little differently.  
 14 Q. If you can't answer these questions  
 15 because it's outside of your responsibilities,  
 16 that's fine. But I'm curious.  
 17 When you had this formal process in place to  
 18 put policies in writing, I assume there was a  
 19 process where at first there was discussion about  
 20 whether a policy was needed?  
 21 A. Again, I wasn't in charge of the policy  
 22 writing. So early on, especially in this  
 23 timeframe, I was only brought in if there was a  
 24 question regarding HBC. So that would be more a  
 25 question for Joe Millward as far as, you know, who

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1 was kind of in charge of that piece of it.  
 2 Q. In general, if a policy is in writing,  
 3 it's put in writing in part to facilitate  
 4 communications among individuals in a company?  
 5 A. It assists in communication, but we had  
 6 good communication before that. So it's, more or  
 7 less, just to formalize things, improve things,  
 8 process changes, things like that. It's just an  
 9 overall -- I guess you would call it a  
 10 clarification process or efficient -- to me it's  
 11 efficient when you put it into this format.  
 12 Q. If you put it in writing, it's more  
 13 efficient that way?  
 14 A. Well, writing in this format. We had a  
 15 lot of things in writing. But our policy process  
 16 was formalized.  
 17 Q. If there's a formal policy in place, it  
 18 does facilitate communication among individuals  
 19 about expectations; is that right?  
 20 MR. BARNES: Object to the form. Calls  
 21 for speculation.  
 22 A. Not --  
 23 BY MR. ROTTINGHAUS:  
 24 Q. You don't disagree with that statement?  
 25 A. Not necessarily.

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1 Q. So you don't agree that a policy in  
 2 writing facilitates communication among  
 3 individuals in a company?  
 4 A. I can't say every time it would.  
 5 Q. Would it sometimes?  
 6 A. Potentially.  
 7 Q. Might that be one reason to put a policy  
 8 in writing?  
 9 MR. BARNES: Object to form.  
 10 THE WITNESS: I wouldn't say that's the  
 11 only reason for putting it in writing.  
 12 BY MR. ROTTINGHAUS:  
 13 Q. I'm not asking the only reason. Is one  
 14 reason you can think of to put a policy in writing  
 15 to make sure that everyone is on the same page in  
 16 a company regarding expectations?  
 17 MR. BARNES: Object to form. Calls for  
 18 speculation.  
 19 THE WITNESS: I mean, I wouldn't view it  
 20 that way.  
 21 BY MR. ROTTINGHAUS:  
 22 Q. How would you view it? If you decide a  
 23 policy should be put in writing, why would that be  
 24 a good idea?  
 25 A. I think, again, it formalizes things.

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1 But I don't really, to be honest with you, know.  
 2 Q. Might a written policy help individuals  
 3 within a company understand their clearly  
 4 delineated roles in the company?  
 5 MR. BARNES: Object to form.  
 6 THE WITNESS: I would state that it  
 7 would help others in different departments know  
 8 what other departments are responsible for, not  
 9 necessarily -- everybody knew their role back at  
 10 that time and what they were supposed to be doing.  
 11 They had procedures in place to do it.  
 12 Now, there were procedures, like I mentioned,  
 13 at store level from checking in the order process,  
 14 dispensing of a prescription was highly -- we  
 15 monitored very closely. Shipping the product was  
 16 one piece of it. So we had different components  
 17 all along the way.  
 18 So really sometimes a policy is just meant to  
 19 bring together everything -- all these steps in  
 20 the system into one document.  
 21 BY MR. ROTTINGHAUS:  
 22 Q. Might one reason for a formal written  
 23 policy in the company be to make sure everyone  
 24 within the company is complying with the law?  
 25 MR. BARNES: Object to form.

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1 THE WITNESS: Again, for this particular  
 2 reason, I don't believe that to be the reason.  
 3 BY MR. ROTTINGHAUS:  
 4 Q. When you say I don't believe that to be  
 5 the reason, my question is just a little bit  
 6 different I think. We maybe aren't communicating.  
 7 Do you agree that a policy might help making  
 8 sure that individuals within a company are  
 9 complying with a certain regulation or law?  
 10 MR. BARNES: Object to form. Calls for  
 11 speculation.  
 12 THE WITNESS: Can you state the question  
 13 again?  
 14 BY MR. ROTTINGHAUS:  
 15 Q. Sure. If a company puts a policy  
 16 formally in writing regarding certain obligations  
 17 of the company to comply with the law, why would  
 18 the company put it in writing?  
 19 MR. BARNES: Object to form.  
 20 THE WITNESS: Well, you put it in  
 21 writing -- just because you put it in writing  
 22 doesn't mean you didn't have -- policy doesn't  
 23 mean you didn't have it in writing somewhere else  
 24 before. I just don't understand the question.  
 25

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1 BY MR. ROTTINGHAUS:  
 2 Q. Well, you've talked about policies being  
 3 written by your team members. I'm wondering why  
 4 are policies ever put into written format.  
 5 A. It's to have it established in a  
 6 location that people can find it.  
 7 Q. So that they can understand what the  
 8 company's position is or what their role might be  
 9 in the company in certain circumstances?  
 10 A. A lot of times it's created for  
 11 longevity of the process.  
 12 Q. To help people understand the process,  
 13 too; is that right?  
 14 A. New people.  
 15 Q. If somebody comes to the company in a  
 16 new role, if there's a written policy, it may  
 17 provide them with guidance on what the expectation  
 18 is; is that right?  
 19 MR. BARNES: Object to form. This is  
 20 all calling for speculation.  
 21 THE WITNESS: Well, I think we're kind  
 22 of confusing policy and procedures and  
 23 formalization. I'm getting confused with the  
 24 question.  
 25

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1 BY MR. ROTTINGHAUS:  
 2 Q. I'm trying to use your definition. A  
 3 policy is a formal written document. That's what  
 4 I'm talking about, a formal written document.  
 5 You agree and you have seen policies dealing  
 6 with HBC that are in writing during the timeframe  
 7 in which you worked for Giant Eagle; is that  
 8 right?  
 9 A. Specific to HBC by itself, I don't know.  
 10 There are a lot of policies.  
 11 Q. You said the companies, they work  
 12 together, HBC and Giant Eagle; right?  
 13 A. Yes.  
 14 Q. If there was a policy put in place  
 15 between 2009 and 2014 that applied to HBC, might  
 16 the reason for putting that policy in writing be  
 17 to assist individuals in the company, new  
 18 individuals and people who have been there for a  
 19 while, in understanding how to deal with a  
 20 particular process?  
 21 MR. BARNES: Object to form.  
 22 THE WITNESS: I can't answer to the  
 23 reason that a -- unless you point to one specific  
 24 policy, I can't answer why that policy was put  
 25 into place.

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1 BY MR. ROTTINGHAUS:  
 2 Q. Is it ever a good idea to put policies  
 3 in writing, in your opinion?  
 4 MR. BARNES: Same objection.  
 5 THE WITNESS: I don't think there's  
 6 anything wrong with putting a policy in place.  
 7 BY MR. ROTTINGHAUS:  
 8 Q. You think sometimes it's a good idea?  
 9 MR. BARNES: Object to form.  
 10 THE WITNESS: I think it depends on your  
 11 organization. If the organization runs off  
 12 policies, then that's what they would put  
 13 together.  
 14 BY MR. ROTTINGHAUS:  
 15 Q. Did HBC run off policies between 2009  
 16 and 2014?  
 17 A. We ran off of procedures.  
 18 Q. Some of those procedures were put in  
 19 writing in the form of a policy; correct?  
 20 A. If you could point to one, I can say yes  
 21 or no. I don't know.  
 22 Q. If you don't know, that's fine.  
 23 A. Yeah. I don't know.  
 24 Q. And you don't know sitting here today as  
 25 the person responsible for making sure the company



<p style="text-align: right;">Page 86</p> <p>1 was complying with the Controlled Substances Act          2 between 2009 and 2014 whether HBC had any policies          3 in writing during that timeframe?          4 MR. BARNES: Object to form.          5 THE WITNESS: They had procedures in          6 writing.          7 BY MR. ROTTINGHAUS:          8 Q. Now you're using procedures, not          9 policies. So I want to make sure I'm not getting          10 confused.          11 A. It's a definition from a Giant Eagle          12 definition standpoint. So you can define policies          13 and procedures however you want. We had          14 procedures documented.          15 When we went to get our DEA license, we had          16 to have procedures documented. Otherwise, they          17 would not have approved. The DEA approved our          18 facility to be licensed. We had to have the          19 required documentation and procedures put together          20 on paper, and we showed them to the DEA officers          21 who came in and inspected the facility prior to          22 using it. And all of our procedures matched up          23 with the Controlled Substances Act.          24 Q. And these are in writing?          25 A. They were in writing.</p>	<p style="text-align: right;">Page 88</p> <p>1 going back that far, I can't recall. Again, it          2 was part of a team working on getting the license.          3 Q. Now, you told me that you learned a          4 little bit about the Controlled Substances Act          5 when you were in pharmacy school and then you          6 learned some about it on the job as well.          7 A. Yes.          8 Q. Then I asked you if you had ever          9 attended a specific conference dealing with the          10 duties of a distributor under the Controlled          11 Substances Act, and I think you told me some          12 conferences may have addressed that, but you don't          13 remember going to a specific conference on that          14 issue; is that right?          15 A. I don't recall specifically.          16 Q. Were there any other sources of          17 knowledge that you have gained about the duty of a          18 distributor to comply with the Controlled          19 Substances Act other than pharmacy school, some          20 research you have done on your own and maybe some          21 conferences you have gone to?          22 A. Utilizing our legal team on obtaining a          23 license, what was needed, what was required. We          24 also went -- we met with some of our share group          25 partners. So at Giant Eagle we had some other</p>
<p style="text-align: right;">Page 87</p> <p>1 Q. Was there a procedure or a policy in          2 writing for identifying suspicious orders for HBC          3 as of 2009?          4 A. Our process for following suspicious          5 order monitoring matched what was required within          6 this document.          7 Q. So is the answer "yes" or "no"?          8 A. What was the question again?          9 Q. Was there a policy or procedure in          10 writing addressing suspicious orders for HBC          11 warehouse as of 2009 when it got its license?          12 A. I can't answer. I don't know. I can't          13 recall if that was a specific thing in writing.          14 Q. And if it was in writing, it would have          15 been something created by someone else under you          16 at that point in time; is that right?          17 A. Correct. It probably would have been          18 crafted by somebody else.          19 Q. Because you've told us you were not the          20 person who drafted policies or procedures in          21 writing addressing the duties of HBC to comply          22 with the Controlled Substances Act between 2009          23 and 2014; correct?          24 A. I don't recall drafting anything. Maybe          25 helping with some of the wording. But honestly,</p>	<p style="text-align: right;">Page 89</p> <p>1 regional chains that we would, you know, discuss          2 ideas with that we didn't compete with.          3 So there was times where we would have          4 discussions with them regarding things like that.          5 Q. And then another way you may have gained          6 knowledge about the duties of a distributor to          7 comply with the Controlled Substances Act between          8 2009 and 2014 could have been from correspondence          9 or documentation from the DEA or any other          10 regulatory body?          11 A. Yes. Actually, our local DEA agent was          12 a very important piece of the communication. So I          13 spoke with him on the phone and via email          14 correspondence when we were preparing our facility          15 to be inspected.          16 (HBC-Carlson Exhibit 4 was marked.)          17 BY MR. ROTTINGHAUS:          18 Q. In front of you is a document that's          19 been marked as Exhibit 4. That's been handed out          20 to counsel as well at the beginning of this          21 deposition.          22 I'll represent to you that Exhibit 4 is a          23 collection of four different letters from the DEA          24 over a timeframe. Each of the letters, I believe,          25 starts out as Dear Registrant. And I'll represent</p>



<p style="text-align: right;">Page 90</p> <p>1 to you it's my understanding that these letters 2 were intended by the DEA to be sent to every 3 licensed distributor of controlled substances in 4 the country when those letters were sent. 5 A. Okay. 6 Q. Now, I understand that your role in 7 making sure the HBC warehouse was complying with 8 requirements of the Controlled Substances Act 9 started in 2009 and went through 2014. 10 A. Yes. 11 Q. I'm going to refer you, first of all, to 12 not the very first letter in this document. 13 You'll see numbers at the very bottom in the 14 right-hand corner. 15 A. Okay. 16 Q. And in the bottom right-hand corner I 17 think it's the last or second to last letter, but 18 the document numbers end with the last three 19 digits of 687 through 690. 20 A. Okay. 21 Q. Are you with me? 22 A. Yes. 23 Q. If we go to the first page, 687, it 24 appears to be a February 7, 2007 letter on DEA 25 letterhead; is that right?</p>	<p style="text-align: right;">Page 92</p> <p>1 Q. Do you know whether you had seen this 2 June 12, 2012 letter marked as Exhibit 4 at any 3 point in time during your tenure with HBC? 4 A. I cannot recall. 5 Q. Is this a type of letter that if it was 6 indeed received by HBC warehouse, you would expect 7 it to come to you or at least be routed to you as 8 the person who was in charge of making sure that 9 HBC was complying with the Controlled Substances 10 Act between 2009 and 2014? 11 MR. BARNES: Object to form. 12 THE WITNESS: Yes, I would. The process 13 was if they received anything, they would send a 14 copy to corporate. 15 BY MR. ROTTINGHAUS: 16 Q. And when you say the process, that's not 17 something necessarily written in writing, but 18 that's just what you would expect your team to do? 19 A. Yes. 20 Q. Again, sitting here today, you don't 21 think you ever saw this letter back in 2012; is 22 that right? 23 A. I may have. I received a lot of 24 documents, and there's no way for me to remember 25 all of them.</p>
<p style="text-align: right;">Page 91</p> <p>1 A. Yes. 2 Q. Have you seen this letter before? 3 A. I've seen it before, yes. 4 Q. And do you remember whether you ever saw 5 this letter during the timeframe in which you were 6 responsible for compliance at HBC warehouse? 7 A. I do not recall seeing this during my 8 time. 9 Q. If you'll flip to the front of that 10 document, there is -- the first letter is June 12, 11 2012. And that's where the exhibit sticker is 12 first on the document. This is similarly a letter 13 from the DEA. Again, I think it was sent -- it's 14 my understanding it was sent to all distributors 15 who were licensed to distribute controlled 16 substances. And this letter was sent on or about 17 July 12, 2012. 18 Take as much time as you need to, but does 19 this letter appear to be a letter you have seen 20 before as well? 21 A. I've seen this, but only in preparation 22 for the deposition. 23 Q. So relatively recently you saw the 24 letter? 25 A. Yes.</p>	<p style="text-align: right;">Page 93</p> <p>1 Q. If you received a document such as this, 2 a letter from the Drug Enforcement Administration 3 which talks about the duties of distributors of 4 controlled substances, do you think this is a 5 letter you would have asked that somebody keep in 6 a file somewhere for HBC warehouse? 7 A. I would assume if I received this 8 letter, then we would have put it in the DEA -- we 9 did have a DEA file. 10 Q. It's not the type of letter you would 11 have just taken, read and then either put in the 12 shredder or the trash? 13 A. I don't believe I would have done that. 14 Q. Is this a letter that you as the person 15 who was in charge of a team that was tasked with 16 complying with the Controlled Substances Act would 17 have distributed to some of your team members? 18 A. Yes. 19 Q. Why would you do that? 20 A. Any informational documents would be 21 distributed to the whole team just so they're 22 aware of anything. 23 Q. How would that typically work? Would it 24 be scanned and then emailed to your team members? 25 A. It could be by scan. It could be by</p>

<p style="text-align: right;">Page 94</p> <p>1 copy, physical copies and putting it on each          2 person's desk, or it could a scan in an email.          3 Q. Mr. Millward was in the same physical          4 location as you at the office?          5 A. He was in the next building over in          6 2012, I believe.          7 Q. Is Mr. Millward one of the people you          8 would have wanted to give this letter to?          9 A. Yes.          10 Q. And Mr. Chunderlik as well, I assume?          11 A. Yes.          12 Q. Anybody else?          13 A. 2012, probably -- probably those folks          14 would be the ones.          15 Q. Let's look at that first paragraph in          16 this letter. I'm going to read the second          17 sentence of this letter. "This letter is to          18 remind controlled substance manufacturers and          19 distributors of their responsibility to inform DEA          20 of suspicious orders in accordance with 21 Code of          21 Federal Regulations."          22 If you received a letter such as that, you          23 would want to make sure you read that letter to          24 make sure you understood what the expectation was          25 by the DEA and the law?</p>	<p style="text-align: right;">Page 96</p> <p>1 BY MR. ROTTINGHAUS:          2 Q. Sure. As of 2006, you as somebody who          3 had a background in pharmacy and who at that time          4 was a pharmacy district leader were already aware          5 that there was becoming a growing concern about          6 abuse and potential for abuse of opioid          7 medications in the country?          8 MR. BARNES: Same objection.          9 THE WITNESS: I can't speak to that          10 timeframe. As a pharmacist, you're aware of that          11 potential, the potential abuse of those products.          12 That's why they're, you know, regulated the way          13 they are. So pharmacists do know that.          14 BY MR. ROTTINGHAUS:          15 Q. All the way back to pharmacy school you          16 already knew that?          17 A. You know the abusive potentials of          18 opioids.          19 Q. And then between 2007 and 2014, I assume          20 that you were aware that there was a consensus or          21 a belief that there was a continuing or growing          22 problem with opioid abuse in the country?          23 MR. BARNES: Object to form. Calls for          24 speculation.          25 THE WITNESS: I don't recall specific</p>
<p style="text-align: right;">Page 95</p> <p>1 A. I would read the letter to look for          2 changes in the law or regulations specifically to          3 see how it would impact our process.          4 Q. And then you would want to communicate          5 that to your team?          6 A. If there were any changes to the rules          7 and regs, yes.          8 Q. I think the first letter in this group          9 of letters marked as Exhibit 4 was dated in 2006.          10 I think after that, there was one in          11 February 2007.          12 A. Yep.          13 Q. Then another one in 2007, in December of          14 2007.          15 A. Correct.          16 Q. And then 2012. Here's a question I have          17 for you going all the way back to 2006 when you          18 were a pharmacy district leader. By that point in          19 time, you were aware that there was a growing          20 concern throughout the country about the abuse and          21 potential for abuse of opioid medications?          22 MR. BARNES: Object to form.          23 THE WITNESS: Can you restate the          24 question again?          25</p>	<p style="text-align: right;">Page 97</p> <p>1 timeframes of when, you know, red flags were being          2 thrown out or not. So from a timing perspective,          3 I'd have to look back and see.          4 BY MR. ROTTINGHAUS:          5 Q. Giant Eagle I think we said or you          6 acknowledged they operated retail pharmacies in          7 five states.          8 A. Yes.          9 Q. And had over 200 retail pharmacies?          10 A. Yes.          11 Q. As a group that size, it was your          12 understanding that there were at least some          13 isolated problems with diversion of controlled          14 substances between 2009 and 2014?          15 MR. BARNES: Object to form. Can you          16 state what you mean by diversion?          17 BY MR. ROTTINGHAUS:          18 Q. Do you know what diversion means?          19 A. Well, I know it means getting it in the          20 wrong hands. Can you be more specific on what          21 type of diversion?          22 Q. Well, diversion can occur in different          23 ways; correct?          24 A. Yes.          25 Q. A pharmacist can divert?</p>

<p style="text-align: right;">Page 98</p> <p>1 A. Um-hum.</p> <p>2 Q. In other words, a pharmacist, for one,</p> <p>3 they might have an unfortunate drug addiction</p> <p>4 where they're diverting or taking medications for</p> <p>5 their own personal use; correct?</p> <p>6 A. Correct.</p> <p>7 Q. A pharmacist could divert medications</p> <p>8 for personal gain, in other words, they might take</p> <p>9 them theoretically and could sell them to someone</p> <p>10 else?</p> <p>11 A. Correct.</p> <p>12 Q. They may have a family member who has</p> <p>13 some addiction that they're trying to help out and</p> <p>14 don't know how to do it in the right way, and they</p> <p>15 may divert pharmacy medications for that reason,</p> <p>16 too; correct?</p> <p>17 A. Yes.</p> <p>18 Q. And then also pharmacy medications,</p> <p>19 specifically controlled substances, could</p> <p>20 theoretically be stolen from a pharmacy.</p> <p>21 A. Correct.</p> <p>22 Q. They could be stolen from a warehouse.</p> <p>23 A. Correct.</p> <p>24 Q. That's why there are different controls</p> <p>25 or security precautions put in place at the</p>	<p style="text-align: right;">Page 100</p> <p>1 for one reason or another, people were abusing</p> <p>2 opioid medications either through or within the</p> <p>3 Giant Eagle system?</p> <p>4 MR. BARNES: Object to form.</p> <p>5 THE WITNESS: Well, putting the term</p> <p>6 abusing as far as products, investigating</p> <p>7 potential loss of product or theft or something to</p> <p>8 that matter, yes. But throwing the words abusing</p> <p>9 the product in there, you know, obviously it</p> <p>10 depends on your definition of abuse.</p> <p>11 BY MR. ROTTINGHAUS:</p> <p>12 Q. Diversion was something Giant Eagle was</p> <p>13 trying to prevent along with every other pharmacy</p> <p>14 and distributor in the country between 2009 and</p> <p>15 2014 at some level?</p> <p>16 A. It's our responsibility as anybody</p> <p>17 dispensing prescriptions.</p> <p>18 Q. And to some degree, you had knowledge</p> <p>19 that there were individuals within your community</p> <p>20 or within the country who had a problem abusing</p> <p>21 controlled substances including opioid</p> <p>22 medications?</p> <p>23 A. Correct.</p> <p>24 Q. That's something that wasn't just unique</p> <p>25 to Mr. Carlson. Everybody who worked in</p>
<p style="text-align: right;">Page 99</p> <p>1 warehouse level all the way to the retail pharmacy</p> <p>2 level, to try to prevent diversion from happening;</p> <p>3 correct?</p> <p>4 A. Correct.</p> <p>5 Q. Despite those controls being put in</p> <p>6 place, you were aware that for one reason or</p> <p>7 another, there were isolated times where even in</p> <p>8 the Giant Eagle system, diversion took place?</p> <p>9 A. Well, there were times where our system</p> <p>10 caught those types of situations, yeah,</p> <p>11 absolutely.</p> <p>12 Q. And hopefully caught them before it</p> <p>13 could progress to something really serious, but</p> <p>14 there were situations where someone was trying to</p> <p>15 do something illegally with the controlled</p> <p>16 substances?</p> <p>17 A. Yes.</p> <p>18 Q. And the hope would be that your system</p> <p>19 could catch those 100 percent of the time; right?</p> <p>20 A. Correct.</p> <p>21 Q. Unfortunately, it doesn't always happen</p> <p>22 100 percent of the time.</p> <p>23 A. Right.</p> <p>24 Q. And there were times between 2009 and</p> <p>25 2014 you were aware that there were problems where</p>	<p style="text-align: right;">Page 101</p> <p>1 distribution knew that that could be a problem</p> <p>2 between 2009 and 2014?</p> <p>3 A. Correct.</p> <p>4 Q. Let me show you Exhibit 5. Forgive me.</p> <p>5 It's a little lengthy. I'll reference specific</p> <p>6 pages to you after you have a chance to see it. I</p> <p>7 haven't marked it yet. Forgive me.</p> <p>8 I put a sticker Exhibit 5 in the bottom</p> <p>9 right-hand corner. I'm going to give you another</p> <p>10 document that we're marking as Exhibit 6. I'm</p> <p>11 marking a similar document Exhibit 6. I'll</p> <p>12 explain them in just a second for you.</p> <p>13 (HBC-Carlson Exhibits 5 - 6 were marked.)</p> <p>14 BY MR. ROTTINGHAUS:</p> <p>15 Q. Mr. Carlson, Exhibit 5 is meeting</p> <p>16 minutes from what I understand to be the Ohio</p> <p>17 Board of Pharmacy. And if you would please go to</p> <p>18 page -- it's going to be a little difficult. And</p> <p>19 I apologize. These aren't individually numbered.</p> <p>20 I'll be happy to help you. I'm looking at a</p> <p>21 page -- it's the 12th page in that stack of</p> <p>22 documents.</p> <p>23 A. What is the top words?</p> <p>24 Q. Let me just show you.</p> <p>25 MR. ROTTINGHAUS: Mr. Barnes, do you</p>

<p style="text-align: right;">Page 102</p> <p>1 mind if I reach over just to show him what I'm  2 looking at?</p> <p>3 MR. BARNES: Sure. Tom, these same  4 exhibits were used in the recent Anthony Mollica  5 deposition, and we had a continuing objection to  6 the use of both of these exhibits, 5 and 6. They  7 were differently numbered in the Mollica  8 deposition, and there was one addition.</p> <p>9 But these two and the one other one were  10 objected to as being irrelevant, outside the Case  11 Track 1 jurisdictions. We confirmed that in the  12 middle of the deposition.</p> <p>13 So if you'll agree to a continuing objection  14 on that ground, I won't have to keep making the  15 same objection as you question him on Exhibits 5  16 and 6.</p> <p>17 MR. ROTTINGHAUS: I agree.</p> <p>18 BY MR. ROTTINGHAUS:</p> <p>19 Q. And we're not going to spend a lot of  20 time on these. I'm sorry they're so voluminous  21 and laborious to go through.</p> <p>22 Here's the question I have for you,  23 Mr. Carlson. Really with respect to Exhibit 5 and  24 Exhibit 6, and this isn't meant to be a critique  25 of Giant Eagle or its pharmacies or anything else,</p>	<p style="text-align: right;">Page 104</p> <p>1 Giant Eagle pharmacies, that you would have tried  2 to reiterate to your compliance team the need to  3 make sure that everyone was vigilant in preventing  4 diversion wherever they could?</p> <p>5 MR. BARNES: Object to form.</p> <p>6 THE WITNESS: Me in particular, I mean,  7 the message was clear, that we were always  8 vigilant for any of these situations. And I  9 believe that the systems that Anthony Mollica put  10 in place, in charge of operations, were, you know,  11 top notch as far as what I've seen other retailers  12 do from a security standpoint of the products.</p> <p>13 I mean, these were -- I just think they did a  14 great job of handling all these investigations.</p> <p>15 BY MR. ROTTINGHAUS:</p> <p>16 Q. What was Anthony Mollica's -- did he  17 have responsibility for compliance?</p> <p>18 A. At the time that you mentioned, that  19 timeframe, he was in charge of Joe Millward and  20 George Chunderlik.</p> <p>21 Q. 2009 to 2014?</p> <p>22 A. Correct, until I took on the VP role.</p> <p>23 So the compliance rolled underneath Anthony. So I  24 just essentially assumed Anthony's position.</p> <p>25 Q. Understood. So maybe we were</p>
<p style="text-align: right;">Page 103</p> <p>1 but the reality is between 2009 and 2014, there  2 were isolated instances where it was discovered  3 that diversion was taking place with respect to  4 medications that were intended for Giant Eagle  5 pharmacy customers; is that right?</p> <p>6 MR. BARNES: I'd like to interject a  7 question. Do you mean the term diversion to  8 encompass theft?</p> <p>9 MR. ROTTINGHAUS: Yes.</p> <p>10 THE WITNESS: Specific to this case in  11 particular, I haven't read this case, but just in  12 general, there have been cases of theft that  13 occurred out of pharmacies.</p> <p>14 BY MR. ROTTINGHAUS:</p> <p>15 Q. At the Giant Eagle pharmacies?</p> <p>16 A. At Giant Eagle.</p> <p>17 Q. With respect to those cases, did you  18 have any involvement between 2009 and 2014 in  19 addressing those isolated cases?</p> <p>20 A. 2009 to '14 I was not in charge of  21 pharmacy operations, but I would get involved as  22 far as assisting in any investigations of these.</p> <p>23 Q. Do you believe it's likely that between  24 2009 and 2014, as you became aware of any isolated  25 instances of theft or diversion of any sort with</p>	<p style="text-align: right;">Page 105</p> <p>1 miscommunicating before, but I thought that you  2 told me that between 2009 and 2014, it was you who  3 was responsible for overseeing compliance with the  4 Controlled Substances Act for HBC warehouse.</p> <p>5 A. I mentioned it was kind of a team  6 effort. So even though they reported to Anthony,  7 Joe and George were a resource of mine as well  8 from a compliance and research standpoint. So I  9 felt in answering the question that it was my  10 responsibility to make sure that we were following  11 the rules.</p> <p>12 But it was a team effort, like I mentioned,  13 before where George and Joe were also helping,  14 assisting, even to Anthony's level, too.</p> <p>15 Q. Was it your understanding then that  16 Anthony was also overseeing the compliance aspect  17 of HBC warehouse between 2009 and 2014?</p> <p>18 A. Indirectly I guess you would say yes,  19 because of his team. Just because they report to  20 him didn't mean that they only worked within his  21 scope.</p> <p>22 Q. If there was a concern identified with  23 compliance between 2009 and 2014, would addressing  24 that concern fall under Anthony during that  25 timeframe or under you?</p>



<p style="text-align: right;">Page 106</p> <p>1 A. It would depend on the situation, I  2 think, as far as where it fell. If it was a store  3 level versus even a McKesson issue, McKesson fell  4 under me at that time as well. So if it was  5 compliance with the way McKesson was doing things,  6 I would bring Joe and George in on the  7 conversation, but ultimately, I'd be the one  8 dealing with McKesson to remedy any kind of  9 compliance issue. That's just an example. I  10 don't have any specifics.</p> <p>11 Q. If there was a concern or question  12 raised as to whether there was an effective  13 suspicious order management system in place at HBC  14 warehouse between 2009 and 2014, would you expect  15 that concern to be run through you or run through  16 Anthony or someone else?</p> <p>17 A. The concern would be run through me if  18 somebody had any concerns.</p> <p>19 Q. And then you would be the one  20 responsible for addressing any concerns and  21 determining if they had any merit?</p> <p>22 A. Yeah. As a team, I would work with them  23 to see if there were any issues or any problems.  24 At the time we were following the process that was  25 required. We've always had a system in place</p>	<p style="text-align: right;">Page 108</p> <p>1 A. Yes. Kris was my pharmacy buyer at the  2 time.</p> <p>3 Q. When you say your pharmacy buyer -- the  4 regarding line says HBC phone number. I'm not  5 sure exactly what that means, but --</p> <p>6 A. Yeah, because they were asking for the  7 phone number. In the very first email, the  8 district leader was asking for the phone number to  9 contact the warehouse to discuss the discrepancy.</p> <p>10 Q. Does it appear to you that there was a  11 discrepancy noticed that was coming out of the HBC  12 warehouse?</p> <p>13 A. In this email chain, it was referring to  14 a missing bottle.</p> <p>15 Q. And Kris Remas is identifying the  16 specific bottle and the amount or the dosage of  17 that bottle? It's a hydrocodone product?</p> <p>18 A. Yes.</p> <p>19 Q. If we go to the first page, and I don't  20 mean to skip over all the communication, but I  21 noticed that on the first page at the very bottom,  22 Andy Zalewski states in the last sentence, "As for  23 issuing credit, that is now Greg's decision on how  24 to handle."</p> <p>25 Do you have any belief that he's referring to</p>
<p style="text-align: right;">Page 107</p> <p>1 since the beginning.</p> <p>2 MR. BARNES: Are you done with five and  3 six?</p> <p>4 MR. ROTTINGHAUS: Yeah.  5 (HBC-Carlson Exhibit 7 was marked.)</p> <p>6 BY MR. ROTTINGHAUS:</p> <p>7 Q. I'm showing you what we've marked as  8 Exhibit 7. If we could go to the second page of  9 this document, this is what appears, Mr. Carlson,  10 to be a chain of emails that actually began, I  11 believe, on January 24. You can look at all of it  12 if you would like to familiarize yourself with  13 this email chain. Let me know when you're  14 prepared.</p> <p>15 (Witness reviewed the exhibit.)</p> <p>16 BY MR. ROTTINGHAUS:</p> <p>17 Q. On the second page, there's a discussion  18 about missing one bottle of, it says, 186775  19 hydro.</p> <p>20 A. Okay.</p> <p>21 MR. ROTTINGHAUS: If you would highlight  22 that for a second.</p> <p>23 BY MR. ROTTINGHAUS:</p> <p>24 Q. This appears to be an email from Kris  25 Remas. Do you know who that person is?</p>	<p style="text-align: right;">Page 109</p> <p>1 you at this point in time?</p> <p>2 A. Yeah. That would be me.</p> <p>3 Q. And then right above that you send an  4 email out on January 27 at 4:32 p.m. And in that  5 email you ask if it would be too much trouble to  6 place the control bottles in a bag inside the  7 tote. Then you say, "Since it is possible to  8 squeeze a bottle through, if they were all bagged  9 together, it would be tough to do that." You say,  10 "Just a thought as an added deterrent."</p> <p>11 In this email are you discussing in general  12 terms how to deter any type of theft or diversion  13 of the product?</p> <p>14 A. Yes. I can't remember the exact case  15 back then, but this to me looks like an example of  16 when we, you know, quickly identified an issue and  17 investigated very promptly and looked to find what  18 could have caused it and then adding an additional  19 safeguard in place, which was the bags.</p> <p>20 In this process here, it looks like the  21 system working very well from an overall team  22 standpoint, like I mentioned before, everybody  23 being involved from the store level all the way to  24 the warehouse where they caught it.</p> <p>25 Within a couple of days, we already had a</p>



<p style="text-align: right;">Page 110</p> <p>1 solution in place to prevent this, if that was          2 even the problem. It was, hey, there's a          3 potential could somebody squeeze their hand          4 through the tote even though it was sealed. And          5 then we said if we bag them all together, there          6 would be no way they could pull out a full bag of          7 products.          8 Q. So again, at least by 2012, there was an          9 awareness that for one unfortunate reason or          10 another, people did sometimes try to steal these          11 medications?          12 A. Sure.          13 Q. Again, this was hydrocodone combination          14 product at this point in time?          15 A. Yes.          16 Q. And you were aware, I mean personally,          17 and your team was aware of the problem that some          18 people were addicted to hydrocodone combination          19 products and would try to steal them?          20 A. Yeah. We looked at it as we were          21 responsible for securing the product from start to          22 finish. This was an example of when we just made          23 sure we had everything secure.          24 (HBC-Carlson Exhibit 8 was marked.)          25</p>	<p style="text-align: right;">Page 112</p> <p>1 Q. This appears to be an email from          2 Mr. Millward, and it's addressed to you, as I          3 understand it. Is that your understanding?          4 A. Yes.          5 Q. You correct me if I'm wrong in how I          6 read this, but he says, "I think you, Dan, George          7 and I need to get together to review and respond          8 to this request from McKesson. They have          9 definitely strengthened the information that they          10 require before increasing the controlled drug          11 thresholds."          12 You're familiar with the term "thresholds"?          13 A. Yes.          14 Q. So as of May of 2013, does it appear to          15 be Mr. Millward's impression that McKesson,          16 they're increasing or strengthening their          17 controlled drug thresholds?          18 MS. CHARLES: Object to form.          19 THE WITNESS: Well, I mean, I don't          20 interpret it as strengthening their thresholds. I          21 interpret it as changing the information needed to          22 increase the thresholds.          23 Whether or not that's strengthening the          24 information, I don't know. I don't understand          25 what he means by strengthening the information,</p>
<p style="text-align: right;">Page 111</p> <p>1 BY MR. ROTTINGHAUS:          2 Q. I'm going to have to ask you to forgive          3 me again because I'm going to reference another          4 document there. I only want to reference a small          5 portion, but unfortunately it's a large document.          6 In the interest of making sure we're being fair,          7 we've attached the entire document. So I'm going          8 to show you what's been marked as Exhibit 8.          9 So the first page of Exhibit 8, Mr. Carlson,          10 appears to be some type of meeting organization          11 from Mr. Millward where I believe you and          12 Mr. Chunderlik and Mr. Millward and a couple of          13 other individuals were invited guests. Maybe it          14 wasn't a conference, but to at least participate          15 in this conference; is that right?          16 A. Conference call, yeah.          17 Q. Conference call?          18 A. Um-hum.          19 Q. Now, there's an email chain right          20 underneath that notice. Do you see that on the          21 first page --          22 A. Yes.          23 Q. -- where it starts, "Greg, I think you,          24 Dan, George and I..." Are you with me?          25 A. Yes.</p>	<p style="text-align: right;">Page 113</p> <p>1 but it sounds like they just are requesting          2 different information than previously given.          3 BY MR. ROTTINGHAUS:          4 Q. On the next page, and I think you're          5 with me now, page 2 of this document, it's a          6 May 6, 2013 correspondence to Mr. Millward.          7 A. Okay.          8 Q. And I don't want to misstate it, so I'm          9 just going to read the first sentence. First of          10 all, you'll see it's from someone named Dan          11 Jeffries.          12 A. Yes.          13 Q. Do you know Mr. Jeffries?          14 A. I have met Mr. Jeffries, yes.          15 Q. Who is he with?          16 A. He's with McKesson.          17 Q. The letter states as follows, "Dear          18 Joseph, as we unfortunately are all aware, the          19 abuse of prescription drugs, particularly          20 controlled substances, continues to be a serious          21 problem among millions of Americans."          22 Do you agree with that statement?          23 A. Yes.          24 Q. Do you think members of your team at HBC          25 would agree with that statement back in 2013?</p>

<p style="text-align: right;">Page 114</p> <p>1 A. I can't speak for them.</p> <p>2 Q. You personally do though?</p> <p>3 A. Well, I'm not denying that statement.</p> <p>4 Q. I mean, you agree at that point in time,</p> <p>5 it was a problem?</p> <p>6 A. I don't know like as far as numbers of</p> <p>7 Americans as far as that goes.</p> <p>8 MR. BARNES: You're done with this one?</p> <p>9 MR. ROTTINGHAUS: Yes.</p> <p>10 (HBC-Carlson Exhibit 9 was marked.)</p> <p>11 BY MR. ROTTINGHAUS:</p> <p>12 Q. I'm showing you what's been marked as</p> <p>13 Exhibit 9. Sir, this is an email dated August 22,</p> <p>14 2013 from someone named Shawn Voyten.</p> <p>15 A. Yes.</p> <p>16 Q. Did Shawn work at HBC or at Giant Eagle?</p> <p>17 A. Giant Eagle.</p> <p>18 Q. What was Shawn's position?</p> <p>19 A. At this time, I believe -- I believe he</p> <p>20 was maybe director of pharmacy technology, but I'm</p> <p>21 not quite certain on his position.</p> <p>22 Q. And you're copied on this email that was</p> <p>23 sent to Mr. Millward, Mr. Mollica and</p> <p>24 Mr. Chunderlik?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 116</p> <p>1 painkillers has become a problem in the United</p> <p>2 States?</p> <p>3 A. A problem, yes. I mean, a number, cause</p> <p>4 of death and things like that I don't know</p> <p>5 specifically. A problem, yes.</p> <p>6 (HBC-Carlson Exhibit 10 was marked.)</p> <p>7 BY MR. ROTTINGHAUS:</p> <p>8 Q. I'm handing you what's been marked as</p> <p>9 Exhibit 10. Do you have it in front of you?</p> <p>10 A. Yes.</p> <p>11 Q. This appears to be an April 18, 2014</p> <p>12 email, at least as it starts at the top, from Mike</p> <p>13 Bianco to you; is that right?</p> <p>14 A. Yes.</p> <p>15 Q. I don't want to rush you through this.</p> <p>16 This email chain, I think, is two and a half pages</p> <p>17 long. I won't highlight anything at this point in</p> <p>18 time, but I want to see if you agree that the</p> <p>19 email started out because of concern about a</p> <p>20 missing tote from the HBC warehouse.</p> <p>21 A. Yes. From store 35 it looks like there</p> <p>22 was a missing tote.</p> <p>23 Q. Then there was a question about possibly</p> <p>24 having to complete a DEA Form 106, which I</p> <p>25 understand to be a form that's used to address</p>
<p style="text-align: right;">Page 115</p> <p>1 Q. In the first section or first paragraph</p> <p>2 of that email, it says, "All." It says, "Paul</p> <p>3 Callahan sent the attached article for review."</p> <p>4 And he says, "Very powerful message from CVS."</p> <p>5 I don't mean to skip through. If you want to</p> <p>6 look at the entire document, feel free, but I'm</p> <p>7 going to skip down about five paragraphs where it</p> <p>8 starts with, "Abuse of opioid prescription</p> <p>9 painkillers..." Do you see where I am?</p> <p>10 A. Yes.</p> <p>11 Q. And it states, "Abuse of opioid</p> <p>12 prescription painkillers like Oxycontin ranks as</p> <p>13 the number two cause of accidental death in the</p> <p>14 United States."</p> <p>15 Back in August of 2013, did you have any</p> <p>16 understanding that abuse of opioid prescription</p> <p>17 painkillers was becoming one of the leading causes</p> <p>18 of death in the United States?</p> <p>19 MR. BARNES: Object to form.</p> <p>20 THE WITNESS: I can't recall back in</p> <p>21 2009 or 2013 -- I'm sorry -- what my knowledge was</p> <p>22 as far as this goes.</p> <p>23 BY MR. ROTTINGHAUS:</p> <p>24 Q. At some point in time, did you become</p> <p>25 aware that the abuse of opioid prescription</p>	<p style="text-align: right;">Page 117</p> <p>1 potential theft.</p> <p>2 A. Correct.</p> <p>3 Q. And then if we go to the first page of</p> <p>4 this exhibit -- I'm sorry. You're at the right</p> <p>5 page. If we look at that page of the exhibit, you</p> <p>6 state towards the bottom, he needs to fill out the</p> <p>7 106, right above.</p> <p>8 So you were asked whether there's a need</p> <p>9 follow up. Then you say HBC does need to fill out</p> <p>10 the 106, but that can be done on their behalf; is</p> <p>11 that correct?</p> <p>12 A. Yeah, we can. We being Mike and/or I</p> <p>13 can fill out the 106.</p> <p>14 Q. Again, at least as of 2014, the</p> <p>15 potential for theft was recognized, and the</p> <p>16 procedure in place at least was to fill out a form</p> <p>17 if there was a suspected theft?</p> <p>18 A. Yeah. We followed the controlled</p> <p>19 substance policy, which is if there's ever a</p> <p>20 theft, you report it to the DEA.</p> <p>21 Q. Do you know how often there were</p> <p>22 concerns about missing totes or missing</p> <p>23 hydrocodone combination products coming out of the</p> <p>24 HBC warehouse between 2009 and 2014?</p> <p>25 A. I don't know how many times; very</p>

<p style="text-align: right;">Page 118</p> <p>1 infrequent.</p> <p>2 Q. Whenever a number would be off or</p> <p>3 couldn't be reconciled with what the warehouse</p> <p>4 showed versus what was shipped, that would require</p> <p>5 some type of investigation to find out where any</p> <p>6 missing medication was or if indeed there was</p> <p>7 missing medication?</p> <p>8 A. Yes. If there's anything missing, we</p> <p>9 would do an investigation.</p> <p>10 (HBC-Carlson Exhibit 11 was marked.)</p> <p>11 BY MR. ROTTINGHAUS:</p> <p>12 Q. I'm giving you what's been marked as</p> <p>13 Exhibit 11. Again, in the interest of trying to</p> <p>14 make sure it was complete, we've added several</p> <p>15 pages here, but I'm going to reference, unless</p> <p>16 you'd like to look at something else, just the</p> <p>17 front page of Exhibit 11.</p> <p>18 At the bottom there's an email from someone</p> <p>19 named Barbara Simpson to you, Mr. Bianco and some</p> <p>20 other people; is that right?</p> <p>21 A. Yes.</p> <p>22 Q. And that email is referencing an</p> <p>23 April 22, 2014 report of a missing control tote</p> <p>24 from one of the Giant Eagle stores.</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 120</p> <p>1 of it, but I have a follow-up question when you're</p> <p>2 ready.</p> <p>3 A. Okay.</p> <p>4 Q. My question is: Did anyone make you</p> <p>5 aware in April of 2014 about any concerns that HBC</p> <p>6 frequently had incorrect sheets for these</p> <p>7 shipments?</p> <p>8 MR. BARNES: Object to form. There's no</p> <p>9 foundation here that he was even part of this</p> <p>10 communication.</p> <p>11 THE WITNESS: Yeah, I don't recall ever</p> <p>12 reading this from Tammy stating what she's stating</p> <p>13 is the issue. Tammy was from the courier company</p> <p>14 that McKesson uses. I mean, I can't speak to that</p> <p>15 because I don't recall ever seeing that issue.</p> <p>16 BY MR. ROTTINGHAUS:</p> <p>17 Q. And that's my question. Did anybody</p> <p>18 ever notify you that there was a concern about the</p> <p>19 sheets being incorrect?</p> <p>20 A. Not that specific issue. We did look to</p> <p>21 improve processes with them, but, no, not to that</p> <p>22 specific issue. I don't recall.</p> <p>23 Q. I'm done with that.</p> <p>24 (HBC-Carlson Exhibit 12 was marked.)</p> <p>25</p>
<p style="text-align: right;">Page 119</p> <p>1 Q. And then there's discussion right above</p> <p>2 that by someone named Blaine Snider about</p> <p>3 verifying the totes.</p> <p>4 A. Yes.</p> <p>5 Q. And then at the top of this email -- and</p> <p>6 I'm not sure that you are a recipient of this</p> <p>7 portion. I am wondering if you remember if you</p> <p>8 were. But there's a follow-up email by someone</p> <p>9 named Tammy to Blaine.</p> <p>10 A. Yes.</p> <p>11 Q. Are you reading with me?</p> <p>12 A. I'm reading, yes.</p> <p>13 Q. In the first paragraph of that portion</p> <p>14 of the email, it starts out, "The long and short</p> <p>15 of it..." at the top. Are you with me?</p> <p>16 A. Yes.</p> <p>17 Q. It states, "The long and short of it is</p> <p>18 that the Giant Eagle HBC sheets are frequently</p> <p>19 incorrect and there are times they cannot even be</p> <p>20 used because they have no totals at all."</p> <p>21 Did I read that correctly?</p> <p>22 A. Yes.</p> <p>23 Q. And I want you to take as much time as</p> <p>24 you need to to read through the entirety of that</p> <p>25 email. I'm not going to try to read through all</p>	<p style="text-align: right;">Page 121</p> <p>1 BY MR. ROTTINGHAUS:</p> <p>2 Q. I'm showing you what's been marked as</p> <p>3 Exhibit 12. Let me know when you're with me.</p> <p>4 While you're looking, I'll tell you what I believe</p> <p>5 this is, an August 11, 2015 email chain that</p> <p>6 started out as an email from someone named Richard</p> <p>7 Shaheen.</p> <p>8 A. Shaheen, yes.</p> <p>9 Q. Is Mr. Shaheen with the Giant Eagle</p> <p>10 system?</p> <p>11 MR. BARNES: Wait. I think I got the</p> <p>12 wrong one.</p> <p>13 THE WITNESS: Yeah, I do, too.</p> <p>14 MR. ROTTINGHAUS: I gave you the wrong</p> <p>15 one. I apologize. Why don't I pull this back.</p> <p>16 I have to get my exhibits organized. If you</p> <p>17 want to wait here or take a break, that's fine.</p> <p>18 MR. BARNES: How long do you need? Five</p> <p>19 minutes?</p> <p>20 MR. ROTTINGHAUS: Hopefully one minute</p> <p>21 or two minutes.</p> <p>22 For the record, I'm going to withdraw what I</p> <p>23 marked as Exhibit 12. I'm going to leave it here,</p> <p>24 and I'm going to put it on a different document.</p> <p>25 I'm going to show you now what I intended to</p>

<p style="text-align: right;">Page 122</p> <p>1 have marked as Exhibit 12 before.          2 And the internal reference number should be          3 1100.          4 MR. BARNES: This is a document          5 Bates-stamped HBC_MDL63991?          6 MR. ROTTINGHAUS: Yes.          7 BY MR. ROTTINGHAUS:          8 Q. I think we have the correct document I          9 meant to grab before. This appears to be an email          10 chain that was started by Richard Shaheen on          11 August 11, 2015; is that correct?          12 A. Yes.          13 Q. On the first page, if you go to the          14 third from the bottom paragraph, I believe this is          15 part of the email that was sent from Mr. Shaheen          16 to you on August 11; is that correct? It starts          17 out, "We are operating..."          18 A. Yes.          19 Q. Here's what he states. I'm going to say          20 what he states. Then I want to ask you what your          21 interpretation is.          22 He says, "We are operating on a two-tier          23 system and holding POD pharmacist accountable for          24 the back counting procedure."          25 He then states, "My concerns are that a</p>	<p style="text-align: right;">Page 124</p> <p>1 We started that process in the Pittsburgh          2 market to test it out. And what I then told Rick          3 is that Darren and Joe were working on this          4 particular project to standardize based on what          5 Rick was discussing. So it was kind of an extra          6 safeguard that we were using in Pittsburgh that          7 Rick didn't know we were looking into spreading it          8 chain-wide.          9 Q. Was this an extra safeguard that was put          10 in place sometime in 2015?          11 A. I can't recall when we rolled out the          12 implementation chain-wide. But I do recall that          13 conversation. I have to see when. But, again, it          14 was in addition to what we were already doing by          15 law. So I think that's what Rick is referring to.          16 Q. Looking at all of these documents we've          17 been looking at, would you agree it was clear to          18 you and your team at HBC of the need to exercise          19 vigilance against theft or diversion of controlled          20 substances between 2009 and 2014?          21 MR. BARNES: Object to form.          22 THE WITNESS: I think -- I believe it          23 was always our belief to be vigilant from the time          24 I started with Giant Eagle until current, until I          25 left the company.</p>
<p style="text-align: right;">Page 123</p> <p>1 regulatory agency may find fault with the lack of          2 our consistency or not being proactive in other          3 regions for the same types of losses."          4 Do you remember this concern being raised by          5 Mr. Shaheen to you?          6 A. I don't recall the specific incident.          7 Q. He's referencing some oxycodone;          8 correct?          9 A. Correct. He's referencing the monthly          10 narcotic audit process and the extra safeguards we          11 put in place. We followed the federal guidelines,          12 regulations I should call them, regarding auditing          13 our narcotic counts. We started around this time          14 implementing additional beyond what the          15 regulations require.          16 Q. What was it that you started around this          17 time to implement?          18 A. This is where he's talking about back          19 counting. We're required to do, you know, I think          20 it's -- we had a process to do monthly narcotic          21 audits. Everything was checked to the pill every          22 month. We started implementing a new process          23 where we were counting to the pill every          24 prescription we filled. We would back count to          25 make sure it that matched.</p>	<p style="text-align: right;">Page 125</p> <p>1 BY MR. ROTTINGHAUS:          2 Q. When talking about -- well, let's back          3 up. It's your understanding, is it not, that one          4 of the requirements under the Controlled          5 Substances Act between 2009 and 2014 was for a          6 distributor to, in laymen's verses, design a          7 system to assist in detecting orders that might          8 end up being suspicious orders from a distributor?          9 MR. BARNES: Object to form.          10 THE WITNESS: Are you asking if I think          11 that the requirement is you had to have a system          12 for suspicious orders?          13 BY MR. ROTTINGHAUS:          14 Q. Well, I mean, your general knowledge is          15 there had to be a system in place per the          16 Controlled Substances Act; is that right?          17 A. That you had to have a system to          18 disclose the suspicious orders of controlled          19 substances.          20 Q. I think you're looking at it. I should          21 have just gone to that. I was trying to speed          22 this up. I shouldn't have done that. Let's look          23 at Exhibit 3 again, general 10. Again, I'm going          24 to focus, understanding I'm just looking at a          25 portion of this regulation, on 1301.74(b). I'm</p>



<p style="text-align: right;">Page 126</p> <p>1 sorry that this type is so small.</p> <p>2 But what I was really trying to get back to</p> <p>3 is what I think you agreed before, but just to</p> <p>4 make sure, it was your understanding that HBC as a</p> <p>5 distributor between 2009 and 2014 had a duty to</p> <p>6 design and operate a system to disclose suspicious</p> <p>7 orders of controlled substances?</p> <p>8 MR. BARNES: Same objection as before.</p> <p>9 THE WITNESS: We had a system that</p> <p>10 followed that regulation.</p> <p>11 BY MR. ROTTINGHAUS:</p> <p>12 Q. And you followed it because that was the</p> <p>13 regulation; right?</p> <p>14 A. Yes. We designed it to fit the rules</p> <p>15 that were put in place by the DEA.</p> <p>16 Q. Then you saw the letters we looked at</p> <p>17 from the DEA, and I won't pull those back up</p> <p>18 unless you want me to, but there were letters</p> <p>19 where the DEA talked about suspicious orders such</p> <p>20 as orders of unusual size or orders deviating</p> <p>21 substantially from a normal pattern or orders of</p> <p>22 unusual frequency.</p> <p>23 You remember some of that language as well?</p> <p>24 A. Yes.</p> <p>25 Q. That was kind of guidance that's</p>	<p style="text-align: right;">Page 128</p> <p>1 distributors other than what McKesson was doing at</p> <p>2 the time.</p> <p>3 (HBC-Carlson Exhibit 13 was marked.)</p> <p>4 BY MR. ROTTINGHAUS:</p> <p>5 Q. Let's look at Exhibit 13 I'll hand you.</p> <p>6 Exhibit 13 is, again, an email chain I think that</p> <p>7 started on November 14 you'll see from the second</p> <p>8 page. If we go to the second page, the original</p> <p>9 email was from Kayla Voelker, and the date is</p> <p>10 indeed November 14, 2013; correct?</p> <p>11 A. Yes.</p> <p>12 Q. And in this email she's saying that --</p> <p>13 and I'm assuming she's talking about HBC because</p> <p>14 the subject line is Daily HBC Suspicious</p> <p>15 Purchasing Report.</p> <p>16 A. Yes.</p> <p>17 Q. She says, "We have had two pharmacies</p> <p>18 exceed the purchasing thresholds for certain</p> <p>19 controlled products so far this month."</p> <p>20 It appears to me from this email chain that</p> <p>21 then there was a response by Mr. Millward on</p> <p>22 November 14 at 5:43 p.m.; is that correct?</p> <p>23 A. Correct.</p> <p>24 Q. Again, Mr. Millward would be the person,</p> <p>25 because he was the senior manager of pharmacy</p>
<p style="text-align: right;">Page 127</p> <p>1 provided to distributors to understand what might</p> <p>2 be suspicious orders?</p> <p>3 MR. BARNES: Object to form.</p> <p>4 BY MR. ROTTINGHAUS:</p> <p>5 Q. Is that right?</p> <p>6 A. Yes.</p> <p>7 Q. And then as a distributor, one of the</p> <p>8 things HBC was trying to do was look for red flags</p> <p>9 that might identify an order that could indeed be</p> <p>10 a suspicious order or at least an order of</p> <p>11 interest in its distribution?</p> <p>12 A. Are you asking if we had a process in</p> <p>13 place to detect that?</p> <p>14 Q. Yes.</p> <p>15 A. Yes.</p> <p>16 Q. You've used the word and heard the term</p> <p>17 red flags before; right?</p> <p>18 A. Yes.</p> <p>19 Q. Not only HBC, but you were aware that</p> <p>20 other distributors were also trying to comply with</p> <p>21 the Controlled Substances Act at the same time?</p> <p>22 MR. BARNES: Object to the form to the</p> <p>23 extent the question asks you about other</p> <p>24 distributors.</p> <p>25 THE WITNESS: I can't speak to other</p>	<p style="text-align: right;">Page 129</p> <p>1 quality and compliance, he would be an appropriate</p> <p>2 person to follow up on this email?</p> <p>3 A. Yes.</p> <p>4 MR. BARNES: Tom, just for the record,</p> <p>5 to the extent that this is not an opioid or one of</p> <p>6 the opioids at issue in this case, we object.</p> <p>7 MR. ROTTINGHAUS: Understood.</p> <p>8 BY MR. ROTTINGHAUS:</p> <p>9 Q. And Mr. Millward is asking two people</p> <p>10 named Todd and Bobby to check with the two stores</p> <p>11 listed on an attached spreadsheet, which I don't</p> <p>12 have, to see if the increase in ordering is</p> <p>13 legitimate. Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. Then he's also apparently asking them to</p> <p>16 respond to questions in regard to a request for an</p> <p>17 increase in narcotic order points. Do you see</p> <p>18 that?</p> <p>19 A. Yes.</p> <p>20 Q. And then he's got some questions listed</p> <p>21 out. Do you see those questions?</p> <p>22 A. Yes.</p> <p>23 Q. Those are questions that are kind of</p> <p>24 familiar to you?</p> <p>25 A. Um-hum.</p>

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1 Q. You have seen other distributors ask  
2 some of those same questions between 2009 and  
3 2014?  
4 A. I don't know about other distributors,  
5 but they were questions that we put in place.  
6 Q. So at least as of 2013, was it your  
7 expectation that those questions would be asked  
8 whenever there was an order that was exceeding  
9 thresholds?  
10 A. Yes. At this time, yes.  
11 MR. BARNES: Tom, I note that this  
12 relates to Pennsylvania. So an additional  
13 objection it's outside the jurisdiction.  
14 BY MR. ROTTINGHAUS:  
15 Q. And Pennsylvania is one of the stores  
16 that you would have had responsibility for as  
17 well; correct?  
18 A. Pennsylvania, yes.  
19 Q. During this timeframe, is Mr. Millward  
20 the person you would expect to typically take the  
21 point in asking these questions of any pharmacies  
22 if their orders were exceeding thresholds?  
23 A. Yes. Joe was the point person at this  
24 time.  
25 Q. Now, if we go right above to the top of

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1 that email, we'll see that -- well, forgive me.  
2 Let's go the middle. There's an email from Todd  
3 Roahrig. And he asks for the names of the clinics  
4 and numbers so that he could follow up, as I  
5 understand it.  
6 A. Yeah. It looks like he's just  
7 inquiring -- it sounds like he may have had a  
8 phone conversation with Tony and he's asking for  
9 him to send the details of what their phone  
10 conversation was.  
11 Q. And then at the top, Todd Roahrig  
12 responds to Mr. Millward saying, "Here's at least  
13 the four clinics/mds around Bridgeville," and he  
14 talks about Tony will continue to do his due  
15 diligence on those.  
16 A. Yes.  
17 Q. Would it be your expectation,  
18 Mr. Carlson -- and let's back up. That email was  
19 on November 25, 2013.  
20 A. Yes.  
21 Q. Would it be your expectation that any  
22 medications that were exceeding thresholds during  
23 that timeframe would not be shipped until it was  
24 determined that the due diligence was done on  
25 those clinics?

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1 A. That would be the assumption, yeah.  
2 Q. Do you know whether there was a system  
3 in place in 2013 for HBC to actually stop the  
4 shipment of any orders that were exceeding  
5 thresholds until due diligence was done to make  
6 sure that the orders were not indeed suspicious?  
7 MR. BARNES: Tom, do you mean shipment  
8 from the warehouse to the pharmacy or from the  
9 pharmacy to the patient?  
10 MR. ROTTINGHAUS: Warehouse to the  
11 pharmacy.  
12 THE WITNESS: Can you restate the  
13 question?  
14 BY MR. ROTTINGHAUS:  
15 Q. Do you know whether in 2013, November of  
16 2013, there was indeed a system in place that was  
17 stopping orders that exceeded thresholds from  
18 being shipped to various pharmacies until the due  
19 diligence could be done to make sure they were  
20 indeed not suspicious orders?  
21 A. I know that there was a process to stop  
22 orders.  
23 Q. Was that your expectation?  
24 A. Yes.  
25 Q. It was your expectation that orders not

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1 be shipped until at least some due diligence was  
2 done to make sure the orders were not suspicious?  
3 A. Correct.  
4 Q. At least if they were exceeding  
5 thresholds; is that right?  
6 A. These are not really suspicious orders.  
7 These are orders of interest I would classify  
8 them, even though the email does say suspicious in  
9 the wording. These were just stores that were --  
10 became orders of interest until we explored them,  
11 investigated them.  
12 Q. And orders of interest may not end up  
13 being suspicious orders?  
14 A. Correct.  
15 Q. They could be suspicious orders, end up  
16 being suspicious orders after due diligence is  
17 done as well; correct?  
18 A. That could occur, yes.  
19 Q. And there were a couple of instances  
20 where that did occur; correct?  
21 A. I can't recall specifically.  
22 Q. If we go to -- I hand you what has been  
23 marked as Exhibit 15.  
24 MR. ROTTINGHAUS: Were we on 14 just  
25 now?

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1 MR. BARNES: 13.  
2 (HBC-Carlson Exhibit 14 was marked.)  
3 BY MR. ROTTINGHAUS:  
4 Q. I'm going to show you what has been  
5 marked as Exhibit 14.  
6 MR. ROTTINGHAUS: Internal reference  
7 1005.  
8 BY MR. ROTTINGHAUS:  
9 Q. Are you with me?  
10 A. Yes.  
11 Q. This, again, is an email chain. At the  
12 top of this email, it's dated August 20 from you  
13 to a couple of individuals; is that right?  
14 A. Yes.  
15 Q. And you say, "See the guardrails by  
16 Emdeon" -- did I say that right?  
17 A. Yes.  
18 Q. -- "Emdeon below." When you're  
19 referencing guardrails, what are you talking  
20 about?  
21 A. I honestly do not -- I'm referencing  
22 this message from Thrifty White, and they said  
23 guardrail. So I'm not familiar. It's an Emdeon  
24 product it sounds like, but I don't know the  
25 details behind that product.

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1 Q. If we look below your email, we see an  
2 email from Mr. Millward to several individuals  
3 with you being copied on it on August 20; is that  
4 right?  
5 A. Yes.  
6 Q. And he's referencing his notes from a  
7 Thrifty White visit.  
8 A. Yes.  
9 Q. And among his notes, he says, "Keep  
10 engaged with the DEA through all steps of  
11 process."  
12 That's something you would expect your team  
13 to do anyway; right?  
14 A. Yes.  
15 Q. Then he says, "Relying on thresholds is  
16 not good enough for the DEA."  
17 Now, this is as of August 20, 2015 what he's  
18 saying there.  
19 A. I think we need to look at the context  
20 of this conversation, too, because this is going  
21 back to preparation for -- I believe preparation  
22 for looking at controlled -- doing CII  
23 prescriptions. So I don't know if that's why Joe  
24 was referring to it in that manner.  
25 Q. Because by this timeframe, HBC at least

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1 was no longer distributing any control III  
2 substances including hydrocodone combination  
3 products; correct?  
4 A. All of the hydrocodones were  
5 reclassified as Schedule II at this point in time.  
6 Q. And by this point in time, the HBC  
7 warehouse was no longer even distributing those  
8 medications; correct?  
9 A. Not the hydrocodone, no, they were not.  
10 Q. However, he saying, "Relying on  
11 thresholds is not good enough for the DEA."  
12 Is that a statement that as of 2015 would be  
13 new to you?  
14 MR. BARNES: Object to form.  
15 THE WITNESS: That's a quote from  
16 Thrifty White, so I don't know if that's her  
17 interpretation of the situation or not.  
18 BY MR. ROTTINGHAUS:  
19 Q. Fair enough. I want to focus on what  
20 your belief was at this time. As of August of  
21 2015, did you have any knowledge or understanding  
22 as to whether relying on thresholds in determining  
23 whether an order may be an order of interest or a  
24 suspicious order was sufficient for the DEA?  
25 MR. BARNES: Object to form.

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1 THE WITNESS: Can you restate the  
2 question?  
3 BY MR. ROTTINGHAUS:  
4 Q. Sure. Let me back it up. We've been  
5 looking at an email from August of '15. But I'm  
6 going to kind of focus a little bit off of that  
7 date.  
8 From 2009 to 2014, at some point in time, did  
9 you become aware that relying on thresholds of  
10 shipments of hydrocodone combination products from  
11 the HBC warehouse was not sufficient to satisfy  
12 the duties of a distributor under the Controlled  
13 Substances Act?  
14 MR. BARNES: Object to form.  
15 THE WITNESS: I mean, there's nothing in  
16 the regulations, to my knowledge, that  
17 specifically say thresholds. I can't answer that  
18 question because my thought process wasn't like  
19 that. Our system didn't only rely on thresholds  
20 anyway. It included other safeguards and  
21 measures. So I would say nothing was new to my  
22 knowledge of the process.  
23 BY MR. ROTTINGHAUS:  
24 Q. Let's talk about what your system did  
25 use. You said it didn't just rely on thresholds.

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1 Tell us what your system did rely on to identify  
 2 any suspicious orders between 2009 and 2014.  
 3 A. We have a number of systems, had a  
 4 number of systems in place at the time. Some of  
 5 those are around general reporting and monitoring  
 6 movement reports on a daily basis. Some included  
 7 safeguards where unusual quantities were caught  
 8 prior to going out.  
 9 So if anything was a large order, outside of  
 10 the norm, it was immediately stopped and red flags  
 11 were thrown out. Questions were asked as far as  
 12 the validity of that order, and it wasn't released  
 13 until it was investigated.  
 14 The stores had a process to check in the  
 15 orders bottle by bottle. They had other  
 16 safeguards in place around safe dispensing of  
 17 controlled substances to the patients, looking for  
 18 other red flags as far as the dispensing process.  
 19 So those are some of the things. I can't recall  
 20 every piece of it.  
 21 Q. I wrote down a couple of things that I  
 22 want to ask you about in follow-up.  
 23 First of all, are you talking about the  
 24 timeframe of 2009 to 2014 when you're referencing  
 25 these different processes in place?

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1 A. Yes. We always had processes in place  
 2 from the beginning. It was mainly modifications  
 3 along the way to the process.  
 4 Q. And these processes as you described  
 5 them, were they put in place in an attempt to make  
 6 sure that HBC warehouse was complying with its  
 7 responsibilities as a distributor under the  
 8 Controlled Substances Act?  
 9 MR. BARNES: Object to form.  
 10 THE WITNESS: We were always complying  
 11 with the rules. We were trying to make our  
 12 process better, more efficient. So it wasn't a  
 13 matter of are we compliant. It was a matter of is  
 14 our process working the most efficient way it can.  
 15 Examples of that is removing some of the manual  
 16 components to that, automating it with reporting  
 17 or other systems.  
 18 BY MR. ROTTINGHAUS:  
 19 Q. Were these processes you've just talked  
 20 about, monitoring movement reports, managing  
 21 unusual quantities, stopping them, those processes  
 22 we were just talking about, were they put in place  
 23 as part of an effort to design and operate a  
 24 system to disclose orders of controlled substances  
 25 that might end up being suspicious orders?

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1 MR. BARNES: Object to form.  
 2 THE WITNESS: My answer would be that  
 3 they were put in place to meet the requirements of  
 4 the Act. So if that's what was in the Act, that's  
 5 part of the reason why they were put in place.  
 6 BY MR. ROTTINGHAUS:  
 7 Q. When you say the Act, you're talking  
 8 about the Controlled Substances Act?  
 9 A. Controlled Substances Act, yes.  
 10 Q. Do you know -- well, first of all, let  
 11 me ask you this with respect to that. You said  
 12 monitoring movement reports?  
 13 A. Yes.  
 14 Q. In preparing for this deposition, have  
 15 you seen one of those reports?  
 16 A. I mean, I saw them years ago, but I have  
 17 not seen any movement reports in preparation for  
 18 this.  
 19 Q. Are these the reports that are also  
 20 called daily control reports?  
 21 A. I don't believe those were -- I mean, we  
 22 had -- basically we had buyer reports, for  
 23 example. So they were just reports that were  
 24 printed out daily. I might have a stack of them  
 25 on my desk. It would show you daily movement,

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1 weekly movement, monthly movement, things like  
 2 that.  
 3 Q. Were you personally tasked with the  
 4 responsibility to review the daily movement  
 5 reports to identify any movements of suspicious  
 6 quantities of substances, or was there some other  
 7 place to assist you in that?  
 8 MR. BARNES: Object to form.  
 9 THE WITNESS: There were other systems.  
 10 I can't remember which reports that would flag  
 11 certain things. The one I was speaking of was  
 12 just a general second level safeguard where I can  
 13 see if any movements were out of line from  
 14 previous history.  
 15 But there were other reports -- I can't think  
 16 of the names of those reports -- that were out  
 17 there that would look at movements of therapeutic  
 18 categories of drugs specifically.  
 19 BY MR. ROTTINGHAUS:  
 20 Q. So you at this point in time, from 2009  
 21 to 2014, sometime during that timeframe, you  
 22 became a senior director of pharmacy?  
 23 A. Yes.  
 24 Q. And when you became the senior director  
 25 of pharmacy, were you overseeing all 200 something



<p style="text-align: right;">Page 142</p> <p>1 Giant Eagle stores?</p> <p>2 A. No, not the stores. I was overseeing</p> <p>3 all of corporate functions at that point. So</p> <p>4 Anthony Mollica was still in charge of the</p> <p>5 operations of the stores. I was responsible for</p> <p>6 the contract management of any vendors, the</p> <p>7 managed care side, which is the insurance</p> <p>8 contracting piece of it kind of rolled up</p> <p>9 underneath me as well. So it was more at that</p> <p>10 level.</p> <p>11 Q. And I just want to make sure I</p> <p>12 understand. During this timeframe from 2009 to</p> <p>13 2014, you're telling us that one of the processes</p> <p>14 in place was you would get a sheet of daily</p> <p>15 movement of all of your medications, including</p> <p>16 controlled substances, and you would personally</p> <p>17 look through that to try to identify any orders</p> <p>18 that seemed out of the ordinary?</p> <p>19 A. We had buyers.</p> <p>20 Q. First of all, am I correct in what I</p> <p>21 said? If I'm not, just correct me.</p> <p>22 A. Oh, no, I mean, I didn't daily look at</p> <p>23 those reports. We had buyers in place at that</p> <p>24 time. We had a category manager in place at the</p> <p>25 time. So they would use that to generate their --</p>	<p style="text-align: right;">Page 144</p> <p>1 reviewed, those are reports of medications</p> <p>2 including controlled substances that have left the</p> <p>3 HBC warehouse and have been shipped to one of the</p> <p>4 retail pharmacies in the five-state region; is</p> <p>5 that right?</p> <p>6 A. It shows history, and then, yeah, it</p> <p>7 shows some movement past, you know, I should say</p> <p>8 after the fact.</p> <p>9 Q. During that timeframe, you're looking at</p> <p>10 reports of medications that have already moved</p> <p>11 from the HBC warehouse?</p> <p>12 A. Right.</p> <p>13 Q. So at least with respect to that review,</p> <p>14 it is not going to catch and do any due diligence</p> <p>15 on medications, specifically controlled</p> <p>16 substances, that have not yet left the HBC</p> <p>17 warehouse?</p> <p>18 A. Not that report, no. That report would</p> <p>19 not. Other safeguards would.</p> <p>20 MR. BARNES: We've been at it about an</p> <p>21 hour and a half. Do you mind if we take a break?</p> <p>22 Normally we try to go about every hour.</p> <p>23 MR. ROTTINGHAUS: Whatever you guys</p> <p>24 want.</p> <p>25 THE VIDEOGRAPHER: Off the record at</p>
<p style="text-align: right;">Page 143</p> <p>1 as part of their reordering process. So when we</p> <p>2 reviewed that, they could also see any out of the</p> <p>3 norm patterns in that process.</p> <p>4 Q. And you're saying you're one of the</p> <p>5 individuals that was reviewing and tasked and</p> <p>6 responsible for reviewing for any out of the norm</p> <p>7 patterns?</p> <p>8 A. I didn't. When you mentioned senior</p> <p>9 director of pharmacy, no, I was not reviewing the</p> <p>10 reports at that time.</p> <p>11 Q. And that would have been between 2005 --</p> <p>12 A. Right.</p> <p>13 Q. I'm sorry. 2007 and 2012.</p> <p>14 A. No senior director of pharmacy.</p> <p>15 Q. 2012 to 2014.</p> <p>16 A. Correct.</p> <p>17 Q. You were not doing so?</p> <p>18 A. I was not reviewing the daily reports</p> <p>19 back at that point.</p> <p>20 Q. Who was reviewing the daily reports at</p> <p>21 that time, if anyone?</p> <p>22 A. Kris Remas would have been reviewing</p> <p>23 reports as part of -- again, our daily process was</p> <p>24 to review the reports.</p> <p>25 Q. Now, when those reports would get</p>	<p style="text-align: right;">Page 145</p> <p>1 12:07.</p> <p>2 (Recess from 12:07 p.m. to 1:05 p.m.)</p> <p>3 THE VIDEOGRAPHER: On the record 1:05.</p> <p>4 BY MR. ROTTINGHAUS:</p> <p>5 Q. So before we took our break, we were</p> <p>6 talking about some of the systems you said that</p> <p>7 you had put in place or had in place at HBC. We'd</p> <p>8 been discussing the monitoring of movement</p> <p>9 reports.</p> <p>10 Correct me if I'm wrong, but my recollection</p> <p>11 is that you said those reports would come across</p> <p>12 your desk at least starting in some timeframe</p> <p>13 between 2009 and 2014?</p> <p>14 A. I was receiving those before, like in</p> <p>15 2007.</p> <p>16 Q. From 2007 all the way through 2014?</p> <p>17 A. I stopped receiving those probably</p> <p>18 somewhere around 2012 probably, around there,</p> <p>19 maybe a little bit sooner than that.</p> <p>20 Q. And I think you told me that when those</p> <p>21 reports came across your desk, they were showing</p> <p>22 products that had already shipped from the</p> <p>23 warehouse to the various pharmacies.</p> <p>24 A. Correct.</p> <p>25 Q. Then you mentioned that -- and I may</p>

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1 have to ask you to help me out here, but you said  
 2 that unusual quantities could be caught, stopped  
 3 and red flagged and not released until or  
 4 something like that.  
 5 Are you talking about at the pharmacy level,  
 6 or were you talking about at HBC?  
 7 A. At HBC if it was a large order.  
 8 Q. Tell me how prior to 2014 any large  
 9 order was caught and stopped before it was  
 10 shipped.  
 11 A. If there was an order that was out of  
 12 the norm for that product line, the person at the  
 13 warehouse would flag that as this is not a normal  
 14 order that I pick. Since they're picking every  
 15 day, they know, okay, is it one bottle a day --  
 16 one bottle per store. If I get an order come  
 17 through for 20 bottles, this doesn't match norm.  
 18 I'm going to question it. And that's where the --  
 19 it would stop that order until it was confirmed.  
 20 Q. Are those the people that some people  
 21 called the pickers at the warehouse?  
 22 A. That might be what their title was, but  
 23 they were essentially picking product at the  
 24 warehouse.  
 25 Q. Do you remember who those individuals

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1 were that you were relying on to identify orders  
 2 that were out of the ordinary?  
 3 A. -- Christy Hart was one of them at the  
 4 time.  
 5 Q. Christy Hart?  
 6 A. Christy Hart. She was kind of the lead  
 7 person there from the beginning, one of the people  
 8 that I was in contact with. I don't know if she  
 9 was like the lead picker or what her title was. I  
 10 know she had gotten promoted along the way. But  
 11 she would be kind of the contact person at first.  
 12 But then the rest of that team and in  
 13 reference to the products we're discussing, there  
 14 were only certain individuals that could get  
 15 within the cage.  
 16 Q. Those are the people I want to know.  
 17 Christy Hart?  
 18 A. Yeah. I don't know the names. I can't  
 19 recall the names of the other folks.  
 20 Q. But you were confident in those folks to  
 21 let you know or let someone know, whether it be  
 22 Mr. Millward, Mr. Chunderlik or you, know if they  
 23 thought there was an order that was out of the  
 24 ordinary?  
 25 A. Yeah. They would red flag most likely

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1 me first. If I'm not available, they would  
 2 contact somebody that could get in touch with me.  
 3 Q. Do you know what training those  
 4 individuals underwent, if any, to help them  
 5 determine what should be considered an order out  
 6 of the ordinary between 2009 and 2014?  
 7 A. I don't know of any specific training  
 8 classes, so to speak. It was just, more or less,  
 9 an experience level.  
 10 Q. Do you think training would have been a  
 11 good idea for those individuals that you were  
 12 relying on to identify orders that were out of the  
 13 ordinary, as you say?  
 14 MR. BARNES: Object to form.  
 15 THE WITNESS: That's part of their  
 16 ongoing hands-on training. Again, I didn't put  
 17 the training for pickers together, so I'm not sure  
 18 what was covered with them as far as that goes.  
 19 BY MR. ROTTINGHAUS:  
 20 Q. Do you think a written policy would have  
 21 been a good idea during that timeframe, 2009 to  
 22 2014, to help those individuals that you were  
 23 relying on to identify orders that were out of the  
 24 ordinary before they went out?  
 25 MR. BARNES: Object to form.

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1 THE WITNESS: Not necessarily.  
 2 BY MR. ROTTINGHAUS:  
 3 Q. So you don't think it would be a good  
 4 idea?  
 5 A. I don't think -- looking back, I don't  
 6 know if it would be a good idea or a bad idea. We  
 7 didn't have any issue with it. We were very good  
 8 with the process. Never had any large orders slip  
 9 through. So I think the procedure that we had in  
 10 place was sufficient.  
 11 Q. You say you never had any large orders  
 12 slip through. What did you consider to be a large  
 13 order?  
 14 A. It depended on the product. You  
 15 couldn't make a determination broadly. It was  
 16 what's the normal for this. That would kind of  
 17 classify as, you know, whatever the  
 18 classifications are as far as a large order.  
 19 Q. You understood that as early as 2008,  
 20 some companies, some distributors were using  
 21 thresholds at least to help them identify some  
 22 orders that might be out of the ordinary?  
 23 MR. BARNES: Object to form. Lack of  
 24 relevance.  
 25 THE WITNESS: Timeline-wise I'm not

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1 certain, but I do remember threshold emails coming  
2 from McKesson.  
3 BY MR. ROTTINGHAUS:  
4 Q. And actually threshold criteria started  
5 to get set for HBC as of 2013; is that right?  
6 A. There was a report created, an automated  
7 report created at that time.  
8 Q. Whose idea was it to create that report?  
9 A. I'm not sure who came up with the idea,  
10 but it was a team that kind of worked on how do we  
11 come up with a process to do that.  
12 Q. Why was the team trying to come up with  
13 a process to identify thresholds at HBC warehouse?  
14 A. We were trying to enhance and improve  
15 our process along the way.  
16 Q. The process of identifying orders that  
17 might be in excess of ordinary?  
18 A. It would be targeting not orders  
19 specifically. Thresholds don't catch one order.  
20 Thresholds capture patterns of orders. So one  
21 large is not, unless it exceeds the threshold, is  
22 not going to be caught by the threshold.  
23 Q. What if it exceeded the threshold, what  
24 did you expect to happen?  
25 A. The order would be investigated.

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1 Q. How would it be investigated?  
2 A. There would be a number of people that  
3 would find out what was going on with that store  
4 in particular that would do -- down at the PDL  
5 level, district leader level investigating what  
6 was going on at that particular store.  
7 Q. So this level started below you where  
8 the investigation would start?  
9 A. Below me and the operations department  
10 would go and look at what's going on in the store.  
11 Q. That's what I want to understand, is  
12 what your system was, who the people were that  
13 were eyeing these threshold reports and then  
14 reporting to whoever they reported to if there  
15 were orders exceeding thresholds and then what due  
16 diligence was done.  
17 A. So the overall security efforts of the,  
18 you know -- to meet the needs of this particular  
19 act or regulation encompassed many different parts  
20 of the whole process. So it would be -- we looked  
21 at ourselves as a self distributor. We had owned  
22 the product, and we're basically handing it off to  
23 another location within our chain.  
24 Unlike a wholesaler, which is selling to a  
25 new customer, a different customer, self

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1 distribution, we knew our customers because they  
2 were us. So we were very familiar with our  
3 customers. We knew exactly what was going on.  
4 Each of these prescriptions were dispensed with a  
5 valid prescription. So those were kind of the  
6 added security measures that met the needs of the  
7 requirement.  
8 Q. Are you able to sit here under oath  
9 today and tell us that every one of the  
10 prescriptions that HBC warehouse filled were  
11 filled with a valid prescription?  
12 MR. BARNES: Object to form.  
13 THE WITNESS: The HBC warehouse filled?  
14 BY MR. ROTTINGHAUS:  
15 Q. Yes.  
16 A. You mean the product coming from HBC  
17 warehouse?  
18 Q. Yes.  
19 A. I can't state, you know, something like  
20 that.  
21 Q. I thought I heard you say that. I  
22 understand that you can't say that. I'm just  
23 wondering -- if you're able to say it, I wonder  
24 how.  
25 A. We act under the guise that our process

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1 is very tight. Can I state that when there's  
2 human beings involved that every prescription was  
3 completely valid? I can't say that.  
4 (HBC-Carlson Exhibit 15 was marked.)  
5 BY MR. ROTTINGHAUS:  
6 Q. Let's look at some of the -- let's look  
7 at the process that existed for HBC and Giant  
8 Eagle from 2009 through 2014. I'm going to refer  
9 you to some exhibits again. The first exhibit I'm  
10 showing you is marked Exhibit 15.  
11 MR. ROTTINGHAUS: And it's reference  
12 103.  
13 BY MR. ROTTINGHAUS:  
14 Q. I know this is a multiple-page exhibit.  
15 I'm going to be referring to the first page, but  
16 look at whatever you need to look at. At the  
17 bottom third of the first page of Exhibit 15,  
18 there's an email from someone seemed Sabrina Cook  
19 who appears to be from McKesson. That email is  
20 going to you; correct?  
21 A. Yes.  
22 Q. And she states, "Greg, below are stores  
23 that are at least 80 percent or above their  
24 thresholds. Please review and let me know if  
25 there's a business reason for an increase."

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1 She then goes on to say they have seven  
2 business days before all thresholds get reset;  
3 correct?  
4 A. Correct.  
5 MR. BARNES: Tom, I'm going to interject  
6 an objection and ask that you agree it be  
7 continuing in that any questions or exhibits  
8 related to how McKesson was operating its  
9 threshold systems for drugs directed to our  
10 pharmacies is not relevant to HBC who is the sued  
11 defendant here. So you're really inquiring about  
12 somebody else's threshold system as opposed to  
13 HBC's controls.  
14 MR. ROTTINGHAUS: So what's the  
15 objection? Insufficient foundation?  
16 MR. BARNES: Well, it's lack of  
17 relevance.  
18 MR. ROTTINGHAUS: Yeah, you can have a  
19 continuing objection if that's what you want.  
20 BY MR. ROTTINGHAUS:  
21 Q. Then underneath that email from her is a  
22 list of several products that appear to be  
23 referenced by her as 80 percent or above their  
24 thresholds.  
25 A. Yes.

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1 Q. Including several hydrocodone products.  
2 A. Yes, and oxycodone and alprazolam.  
3 Q. Several of these were at the time  
4 Schedule III or Schedule III substances?  
5 A. Alprazolam was Schedule IV, hydrocodone  
6 III, oxycodone was a II.  
7 Q. And these were all going to Giant Eagle  
8 stores?  
9 A. Correct.  
10 Q. And then you give her a response on that  
11 same day it appears; is that right?  
12 A. Yes.  
13 Q. And you say, "Sabrina, we need to bump,"  
14 and then you list several stores, "up by  
15 20 percent due to high volume growth. These are  
16 all either new stores or stores running promotions  
17 causing increased volume"; correct?  
18 A. Correct.  
19 Q. Now, where at your level or at your  
20 team's level is there any documentation that there  
21 has been any investigation done with any of these  
22 stores to determine why they are ordering higher  
23 than normal levels of each of these substances?  
24 A. Where is the documentation?  
25 Q. Yes.

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1 A. I'm not sure.  
2 Q. Do you know if there is any  
3 documentation?  
4 A. I'm not sure if there's saved  
5 documentation, but there would have been a process  
6 to obtain the information.  
7 Q. I'm assuming Ms. Cook was probably on  
8 east coast time.  
9 A. Yes.  
10 Q. And then you were, I'm assuming, on --  
11 A. No. She was on Central time.  
12 Q. That's why the time is a little bit --  
13 A. In Texas.  
14 Q. But it does appear that within about one  
15 hour of her email you responded; right?  
16 A. Correct.  
17 Q. Do you think you would have had within  
18 that hour enough time to call whoever you needed  
19 to call on your team to have them investigate each  
20 of these different stores to determine why their  
21 orders were up during that timeframe?  
22 A. I don't remember what my process was for  
23 this case. But some of these stores may have had  
24 the same district leader that I would have reached  
25 out to.

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1 The other thing I would have used is our  
2 other reporting system to show prescription growth  
3 and volume growth at the time.  
4 That's what I was working from was to see  
5 just my overall knowledge of our own customers so  
6 I know that these particular stores at this time  
7 were either new stores, had acquisitions of other  
8 pharmacies, it could have been multiple reasons.  
9 But I don't have -- I couldn't remember back to  
10 2008 to say why store 4078 in particular was up.  
11 Q. And, similarly, you don't have any  
12 documentation or ability to tell us if you made  
13 any calls or did any inquiry to find out, for  
14 example, if store 4078 was prescribing to a number  
15 of patients who listed the same address as their  
16 residential address or who were seeing the same  
17 doctor; is that right?  
18 MR. BARNES: Object to form. I think it  
19 misstates the evidence with respect to who may  
20 have or may not have documentation.  
21 THE WITNESS: I don't -- I can't answer  
22 that without...  
23 (HBC-Carlson Exhibit 16 was marked.)  
24 BY MR. ROTTINGHAUS:  
25 Q. Let me show you Exhibit 16.



<p style="text-align: right;">Page 158</p> <p>1 MR. ROTTINGHAUS: Reference number 102.</p> <p>2 BY MR. ROTTINGHAUS:</p> <p>3 Q. Again, this is, I think, a three-page</p> <p>4 document. I'm going to refer, starting out, to</p> <p>5 the second of three pages where there's another</p> <p>6 email to a Sabrina Cook on Monday, February 23 at</p> <p>7 10:12 a.m.</p> <p>8 A. Yes.</p> <p>9 Q. So let's go to page 2 of this document.</p> <p>10 It appears that, once again, she's referencing</p> <p>11 stores, she says, that have already hit above</p> <p>12 90 percent of their thresholds, and she says, let</p> <p>13 me know if there's a business reason for an</p> <p>14 increase; is that right?</p> <p>15 A. Yes.</p> <p>16 Q. And she lists a couple of hydrocodone</p> <p>17 products there?</p> <p>18 A. Yes.</p> <p>19 Q. And then I don't mean to skip through</p> <p>20 emails, but in the interest of time, if you don't</p> <p>21 mind, go to the first page because there's a</p> <p>22 response from you at the bottom.</p> <p>23 Are you able to read that?</p> <p>24 A. Yes.</p> <p>25 Q. And you say -- and I think you're</p>	<p style="text-align: right;">Page 160</p> <p>1 discovery rulings, I think dispensing information</p> <p>2 is not relevant.</p> <p>3 MR. ROTTINGHAUS: That's not what I'm</p> <p>4 trying to get into.</p> <p>5 BY MR. ROTTINGHAUS:</p> <p>6 Q. Do you know -- what my question is: Did</p> <p>7 you make any call to your knowledge or do any</p> <p>8 inquiry to your knowledge before responding that</p> <p>9 it was strictly for a massive increase in volume</p> <p>10 to make sure that there was not any activity</p> <p>11 taking place that might raise the question of</p> <p>12 whether some of these orders were suspicious</p> <p>13 orders?</p> <p>14 A. I don't recall what I did in 2009.</p> <p>15 (HBC-Carlson Exhibit 17 was marked.)</p> <p>16 BY MR. ROTTINGHAUS:</p> <p>17 Q. We talked before about -- I think we</p> <p>18 talked -- we called them both threshold reports</p> <p>19 and daily control reports. I'm going to show you</p> <p>20 Exhibit 17.</p> <p>21 MR. ROTTINGHAUS: The internal reference</p> <p>22 number on that I think is 1052.</p> <p>23 BY MR. ROTTINGHAUS:</p> <p>24 Q. I will represent to you, sir, that</p> <p>25 Mr. James Tsipakis gave testimony on behalf of the</p>
<p style="text-align: right;">Page 159</p> <p>1 responding to Ms. Cook; is that right?</p> <p>2 A. Yes.</p> <p>3 Q. You say, "Strictly a massive increase in</p> <p>4 volume due to the new location drawing more</p> <p>5 customers"; is that correct?</p> <p>6 A. That's what that says, yes.</p> <p>7 Q. Are you aware of whether you made any</p> <p>8 calls or did any inquiry or asked your team</p> <p>9 members to do any inquiry to make sure that there</p> <p>10 was not any other reason for the increase in</p> <p>11 volume?</p> <p>12 A. I'm not sure what took place back in</p> <p>13 2009. I see Don Casar copied on that email. I</p> <p>14 don't know if that was one of his stores at the</p> <p>15 time or why I would have copied him. But he could</p> <p>16 have been -- he was a PDL at one point in time.</p> <p>17 Q. Are you aware of any inquiry that was</p> <p>18 done that day to find out what the distance was</p> <p>19 from that pharmacy to the nearest doctor and how</p> <p>20 many patients were bringing in prescriptions for</p> <p>21 hydrocodone products from the same doctor?</p> <p>22 MS. CHARLES: Object to form.</p> <p>23 MR. BARNES: I'll also object to form.</p> <p>24 You're getting into dispensing type questions that</p> <p>25 these emails would not reference. So under the</p>	<p style="text-align: right;">Page 161</p> <p>1 company about one month ago, and he gave us some</p> <p>2 information about these reports that are at least</p> <p>3 labeled on the front page of Exhibit 17 as daily</p> <p>4 HBC controls.</p> <p>5 A. Okay.</p> <p>6 Q. And it was his testimony that these</p> <p>7 reports started reporting on a daily basis</p> <p>8 thresholds that exceeded three times the 12-month</p> <p>9 average prior to this order date for HBC and that</p> <p>10 these came out every day.</p> <p>11 Do you have any memory of seeing any</p> <p>12 documents like Exhibit 17?</p> <p>13 MR. BARNES: I'm going to object to the</p> <p>14 form to the extent it misstates Mr. Tsipakis'</p> <p>15 testimony.</p> <p>16 THE WITNESS: Can you restate the</p> <p>17 question? I'm sorry.</p> <p>18 BY MR. ROTTINGHAUS:</p> <p>19 Q. Let me ask you this: Did you receive</p> <p>20 these daily reports?</p> <p>21 A. I received a lot of reports. Just</p> <p>22 looking at it visually, I'm not sure if this is</p> <p>23 one of them, but, I mean, we had a number of auto</p> <p>24 generated reports that came out daily.</p> <p>25 Q. Did you have any responsibility for</p>

<p style="text-align: right;">Page 162</p> <p>1 monitoring these reports on a daily basis to find 2 out why some of these medications were exceeding 3 thresholds on a daily basis? 4 MR. BARNES: Object to form. 5 THE WITNESS: Did I have any 6 responsibility did you say? 7 BY MR. ROTTINGHAUS: 8 Q. Yes. 9 A. We had some folks that were looking at 10 this. 11 Q. Was it you? 12 A. I received a copy of it. Was it my 13 responsibility to act on it? No. 14 Q. Whose was it? 15 A. I don't know at the time who was looking 16 at these. 17 Q. Were these reports that were instituted 18 for the benefit of your team that was monitoring 19 compliance with the Controlled Substances Act 20 between 2009 and 2014? 21 MR. BARNES: Object to form. 22 THE WITNESS: Can you state that again? 23 BY MR. ROTTINGHAUS: 24 Q. Were these reports prepared at the 25 direction or request of someone on your team that</p>	<p style="text-align: right;">Page 164</p> <p>1 A. Correct. 2 Q. So these reports were coming to you or 3 whoever on your team after these products were 4 shipped out; correct? 5 A. Correct. 6 Q. Which means even if there was an order 7 that exceeded thresholds and raised some question 8 in someone's mind as to whether it might be a 9 suspicious order, that product had already gone 10 out to one of the pharmacies; correct? 11 A. Product would still be within our 12 possession at the store level. 13 Q. Not at the HBC level though; right? 14 A. Correct. 15 Q. If you look at this document a little 16 closer, and assuming this is a daily threshold 17 report, does it appear to you that there were 18 several stores that were receiving hydrocodone 19 combination products in excess of the threshold? 20 A. I'm not sure what that threshold is 21 based off of. So in looking at that, I can tell 22 you that those bottom stores were higher volume 23 stores in general. 24 Q. Tell me which stores they were and what 25 location since you know. Let's start with 8041.</p>
<p style="text-align: right;">Page 163</p> <p>1 was monitoring compliance with the Controlled 2 Substances Act to make sure that HBC warehouse was 3 indeed complying with the Controlled Substances 4 Act? 5 MR. BARNES: Object to form. 6 THE WITNESS: This report was created to 7 enhance the current process. So I'm not sure 8 whose direction it was to create the specific 9 report. 10 BY MR. ROTTINGHAUS: 11 Q. As I understand it, when these reports 12 were generated and sent out, they were giving 13 reports on products that had already been shipped 14 to the Giant Eagle pharmacies. And that's from 15 the testimony of Mr. Tsipakis so that you know. 16 Is that your understanding as well? 17 MR. BARNES: Object to form. 18 THE WITNESS: That this is reporting 19 shipped out quantities? 20 BY MR. ROTTINGHAUS: 21 Q. Yes. 22 A. It appears to be stating shipped out. 23 Q. In fact, it even it says total. If you 24 read the abbreviation, it looks like it says total 25 shipped quantity and it gives a number.</p>	<p style="text-align: right;">Page 165</p> <p>1 A. 8041? Where is 8041? 2 Q. I'm sorry. Forgive me. 52. 3 A. 52 is Camp Horne Road. 4 Q. Where is that? 5 A. That's north of Pittsburgh here. 6 MR. BARNES: Can we have a continuing 7 objection to the extent these are outside the Case 8 Track 1 jurisdiction? 9 MR. ROTTINGHAUS: Sure. 10 BY MR. ROTTINGHAUS: 11 Q. How about 6301? 12 A. That's Sarver. So that's one where -- 13 that one probably would have been investigated. I 14 don't know. 15 Q. Why would it be investigated? 16 A. That's not, you know, within the range 17 of those other stores. 18 Q. It's a little higher? 19 A. It's a little higher. 20 Q. What you would expect is someone from 21 your team to at least look at that at some point 22 and say let's figure out why we're exceeding 23 thresholds here? 24 A. That would be the process. 25 Q. That's what you would expect of your</p>

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1 team?  
2 A. Yes.  
3 (HBC-Carlson Exhibit 18 was marked.)  
4 BY MR. ROTTINGHAUS:  
5 Q. I'm going to show you what's been marked  
6 as Exhibit 18. So if we look at Exhibit 18, it  
7 appears to be an email dated July 30, 2013.  
8 A. Yes.  
9 Q. There's an email from one of the  
10 pharmacy team leaders. I'm assuming that means  
11 it's on behalf of one of the stores?  
12 A. Yes.  
13 Q. Is it store 1217?  
14 A. Yes.  
15 Q. Where is that located?  
16 A. Ohio somewhere.  
17 Q. And it says, "Hi, Greg. We have hit our  
18 oxycodone threshold yet again!!" Then it says,  
19 "(I can't believe it)." It then states, "It has  
20 caused us to be short this week on a handful of  
21 products. What steps do we need to take to have  
22 it increased again?"  
23 Then it looks like you responded at  
24 approximately 3:48.  
25 A. Yes.

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1 Q. And you say, "Please review with  
2 your" -- is it pharmacy district leader?  
3 A. Yes.  
4 Q. Do you know who the pharmacy district  
5 leader was for that pharmacy?  
6 A. Not at this date I don't.  
7 Q. You say, "They can have it adjusted. It  
8 will reset Thursday." Is that right?  
9 A. Yeah. My point there, the context was  
10 it's going to reset on Thursday anyways. If they  
11 wanted to review this threshold issue, they could  
12 talk to their PDL about it.  
13 Q. Because you're expecting one of the  
14 pharmacy district leaders as part of your team to  
15 investigate why this threshold might be going so  
16 high; is that right?  
17 A. Correct.  
18 Q. It's not something you're doing  
19 personally, Mr. Carlson. You're expecting other  
20 members of your team to do that.  
21 A. At this point, we had a process for the  
22 PDLs to review it.  
23 Q. And you would have expected your PDL to  
24 review that process; correct?  
25 A. If this store felt they needed an

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1 increase.  
2 Q. Well, the way you read that email, it  
3 says, "We have hit our oxycodone threshold yet  
4 again!!"  
5 Do you have any gut reaction as to whether  
6 they were suggesting the threshold -- that the  
7 order was in excess of threshold and somebody  
8 needed to look?  
9 MR. BARNES: Object to form.  
10 THE WITNESS: I'm not certain based on  
11 this, you know, what was going on in this case.  
12 It doesn't look like I was the one following up on  
13 it, so I don't know what was going on with this  
14 store. This was a McKesson order, not an HBC  
15 order, and I'm not sure how McKesson sets their  
16 thresholds by store.  
17 (HBC-Carlson Exhibits 19 - 20 were marked.)  
18 BY MR. ROTTINGHAUS:  
19 Q. I'm going to show you Exhibits 19 and  
20 20, and I'm going to ask, if we can, to put these  
21 together and I'm going to explain to you why. I  
22 think Exhibit 19 and Exhibit 20 are both part of  
23 the same email chain, but they were emails going  
24 in different directions without copying everyone,  
25 so there were different people on each email.

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1 MR. ROTTINGHAUS: So the reference  
2 numbers are 1200 and 1162.  
3 BY MR. ROTTINGHAUS:  
4 Q. If we go to 1162, the second page -- are  
5 you with me on 1162?  
6 A. Yes.  
7 Q. On the second page there's an email from  
8 you on Monday, September 9, and that's at  
9 11:49 a.m.  
10 A. Yes.  
11 Q. And I think on Exhibit 19, that same  
12 email shows up on the front page, but we'll just  
13 start here, if we can. I want you to have a  
14 chance to read it.  
15 A. Okay.  
16 Q. Are you with me?  
17 A. Yes.  
18 Q. Your email is to Mike and Allen. That's  
19 Mike Bianco and Allen Lowther; right?  
20 A. Right.  
21 Q. And you say, "I would like to explore  
22 our options around sourcing controls other than  
23 HBC." And then you mentioned a couple or a few  
24 options you're thinking about; is that right?  
25 A. It appears to be, yes.

<p style="text-align: right;">Page 170</p> <p>1 Q. Then you say to Allen, "Can you reach  2 out to Eric at HEB."  3 Do you know what HEB is?  4 A. That's a grocery chain out in Texas,  5 down in Texas.  6 Q. Is it kind of a --  7 A. It's a large regional chain similar to  8 Giant Eagle.  9 Q. Kind of a sister type of chain that you  10 think about things the same way?  11 A. That yes. And at this time, we were  12 part of the buying group with them.  13 Q. So you asked him to reach out to Eric at  14 HEB and ask him how they handle suspicious order  15 monitoring to meet federal requirements; is that  16 right?  17 A. Yes.  18 Q. So at this point in time, is there in  19 your mind some question as to whether HBC is doing  20 what it needed to do to meet federal requirements  21 with respect to handling suspicious order  22 monitoring?  23 A. I think at this point, I was just  24 looking again to find ways to enhance our process  25 and make sure that -- I always liked to look at</p>	<p style="text-align: right;">Page 172</p> <p>1 THE WITNESS: I can't recall why I asked  2 the question or what I was looking at.  3 BY MR. ROTTINGHAUS:  4 Q. If we go to the first page of  5 Exhibit 20, which is 1162. And forgive me. If  6 you need to refresh -- actually, on the second  7 page of Exhibit 20, 1162, at the top, there's  8 email from Kris Remas.  9 A. Yes.  10 Q. To Valerie McGregor.  11 A. Um-hum.  12 Q. They're both HBC folks?  13 A. Valerie was more on the IT side of  14 things, yeah.  15 Q. So Kris asks Val, "Does Biceps or DCOPS  16 have any functionality that would allow us to  17 block a store from order of product in a certain  18 subgroup" and then goes on to mention hydrocodone;  19 correct?  20 A. Yeah, as an example.  21 Q. Let's go to the first page of this  22 Exhibit 20. And we see that Valerie gives a  23 response. And according to Valerie, there is  24 nothing in the system that would permit an edit  25 like this right now; is that right?</p>
<p style="text-align: right;">Page 171</p> <p>1 what others did. And if it was something that  2 made sense for us to do, to do it as well.  3 Q. You ask Kris -- and I'm kind of  4 paraphrasing just in the interest of time. You  5 say, "If a store hit a threshold on hydrocodone,  6 could we go in and block that store from ordering  7 those products until the month resets?"  8 And then you mention that you'd like to get  9 answers in the next couple of weeks; is that  10 right?  11 A. Yes.  12 Q. So at least at that point in time, in  13 September of 2013, you weren't sure exactly what  14 the process was on whether you or HBC could block  15 a store from ordering additional hydrocodone  16 products if they already had hit their threshold?  17 A. This was just inquiring into additional  18 functionality using technology to kind of block  19 orders.  20 Q. But does it appear to you from reading  21 these, that at least as of September of 2013, you  22 were not sure as to whether HBC could go in and  23 block a store that had ordered in excess of its  24 threshold on hydrocodone until the next month?  25 MR. BARNES: Object to form.</p>	<p style="text-align: right;">Page 173</p> <p>1 A. That's what she states.  2 Q. And I don't mean to skip over anything.  3 If you think it's important, we'll review the  4 whole thing, but at the bottom of that email, she  5 says, "Sorry. Right now this would be a manual  6 process. There is no systematic way to run these  7 reports and authorize or reauthorize stores for  8 items"; is that right?  9 A. That's what she states, yes.  10 Q. Was that news to you at the time?  11 A. I'm assuming, yeah, because we asked the  12 question.  13 Q. So you actually responded after that  14 because Kris sent the email to you as an FYI;  15 correct?  16 A. Yes.  17 Q. And it looks like you're still trying to  18 make sure you understand the process.  19 A. I think I'm giving her another solution  20 where we would load in RP. Yeah. I can't  21 remember what -- RP was a different system, and it  22 must have been another way to kind of do a manual  23 block.  24 Q. Okay. Let's go to Exhibit 19, reference  25 No. 1200, on the first page. I think you're going</p>



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1 to see where maybe the recipients on this email  
2 chain are diverging a little bit because it's the  
3 same question.  
4 And then Allen Lowther in the middle of that  
5 email sends an email to you on September 19  
6 saying, "Did you talk to Wingerter about this?"  
7 And he says, "Carolyn said they just implemented a  
8 new system in the last couple of weeks."  
9 Do you know what that system was?  
10 A. I think it's the one where in my  
11 response I said -- he said they're still building  
12 it and not implementing it, but I think it was  
13 some type of -- it might have been a threshold  
14 report that they were building.  
15 Q. And, in fact, Mr. Tsipakis on behalf of  
16 HBC told us that it was October of 2013 that the  
17 daily controls started getting reported.  
18 Do you believe most likely this email is  
19 referencing the daily controls that were then  
20 reported subsequently?  
21 MR. BARNES: Object to form. Calls for  
22 speculation.  
23 THE WITNESS: I don't think -- I don't  
24 think this was referring to that report. I think  
25 this was us trying to get information from our

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1 share group members.  
2 BY MR. ROTTINGHAUS:  
3 Q. We talked before a little bit about what  
4 Exhibit 3, Section 1301.74, talks about in terms  
5 of the duty of a distributor to design and operate  
6 a system to disclose to the registrant suspicious  
7 orders of controlled substances; right? We talked  
8 about that?  
9 A. Yes, we have.  
10 Q. And you've told us about some of the  
11 systems or parameters that you thought you had in  
12 place at HBC warehouse; correct?  
13 A. Yes.  
14 (HBC-Carlson Exhibit 21 was marked.)  
15 BY MR. ROTTINGHAUS:  
16 Q. When we deposed Mr. Tsipakis and sent  
17 some written questions to HBC warehouse in this  
18 litigation, we asked about the existence of any  
19 written suspicious order management policy, and we  
20 were given responses, which I'm going to show you,  
21 and your attorney can help you in finding it if  
22 you need to. But I'll represent to you the  
23 response was that with respect to a written  
24 suspicious order management policy, there was one  
25 in effect in 2015 that revised a 2014 policy. And

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1 we have been provided with that policy, which I'm  
2 going to show you in a minute.  
3 My question for you right now is:  
4 Understanding that the company has told us that  
5 the written -- again, written is what I'm  
6 emphasizing -- suspicious order management policy  
7 in place was dated 2014, sitting here today under  
8 oath, are you aware of any written suspicious  
9 order management policy that existed prior to 2014  
10 for HBC?  
11 MR. BARNES: Object to form.  
12 THE WITNESS: I can't tell you that I  
13 know of a specific written policy for suspicious  
14 order monitoring.  
15 BY MR. ROTTINGHAUS:  
16 Q. And, again, you've told us, and just to  
17 make sure I leave here today understanding how it  
18 worked, you weren't the one that drafted the  
19 policies for compliance at HBC anyway; is that  
20 right?  
21 A. I didn't draft the specific policy, no.  
22 (HBC-Carlson Exhibit 22 was marked.)  
23 BY MR. ROTTINGHAUS:  
24 Q. I'm going to give you Exhibit 22.  
25 MR. BARNES: You don't have questions on

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1 21?  
2 MR. ROTTINGHAUS: I just had it in case  
3 he needed to refer to it.  
4 BY MR. ROTTINGHAUS:  
5 Q. Before we get to Exhibit 22, let me just  
6 make sure I understand, because this has been a  
7 question we've asked of everybody. Again, if  
8 there was -- to your knowledge, there was no  
9 written suspicious order management policy prior  
10 to 2014 for HBC?  
11 A. To my knowledge, I can't confirm that.  
12 Q. You're saying --  
13 A. I don't know if there was a written -- I  
14 don't remember a written policy around suspicious  
15 order monitoring specifically.  
16 Q. Prior to 2014?  
17 A. Correct.  
18 Q. Exhibit 22 appears to be an email dated  
19 January 22, 2014 from Mr. Millward to you, to  
20 Mr. Chunderlik and to Mr. Voyten; is that correct?  
21 A. Yes.  
22 Q. And then Mr. Mollica and Mr. Bianco are  
23 also copied on this email?  
24 A. Yes.  
25 Q. The email states, "Shawn and Greg, are

<p style="text-align: right;">Page 178</p> <p>1 we reporting PSE (a listed chemical) sales from 2 HBC to the stores monthly?"</p> <p>3 MR. ROTTINGHAUS: This is reference 4 No. 1132. I'm going to let our exhibit person 5 catch up with us here. We're at the top, the 6 first portion there.</p> <p>7 BY MR. ROTTINGHAUS:</p> <p>8 Q. Do you see where I'm reading from, 9 "Shawn and Greg"?</p> <p>10 A. Yes.</p> <p>11 Q. And it's on that paper, too.</p> <p>12 A. Right.</p> <p>13 Q. So Mr. Millward says, are we reporting 14 PSE sales from HBC to the stores monthly? He then 15 says, "I assume it is through ARCOS to comply with 16 21 U.S.C. Section 830(b). Are the records being 17 retained for two years?" Correct?</p> <p>18 A. Yes.</p> <p>19 Q. And then he states, we need to lock down 20 SOM SOP ASAP; correct?</p> <p>21 A. Yes.</p> <p>22 Q. What do you interpret SOM to stand for, 23 since this email is coming to you?</p> <p>24 A. It looks like it would be suspicious 25 order monitoring.</p>	<p style="text-align: right;">Page 180</p> <p>1 would most likely be the case.</p> <p>2 MR. BARNES: I would interpose an 3 objection that this is not opioid related.</p> <p>4 BY MR. ROTTINGHAUS:</p> <p>5 Q. Did you have any disagreement that you 6 recall with Mr. Millward about whether there was a 7 need to get a suspicious order management or a 8 suspicious order monitoring policy in place ASAP?</p> <p>9 A. I don't remember a disagreement with 10 Mr. Millward about it.</p> <p>11 Q. You would have no reason to disagree if 12 that's what he thought, would you?</p> <p>13 MR. BARNES: Object to form.</p> <p>14 THE WITNESS: It depends on the context. 15 I'm not sure what he's saying, what he means by 16 this, if he just needs something in writing to 17 provide to Qualitest outside of what we already 18 had in place. I don't -- I can't tell from this 19 email what he actually means here.</p> <p>20 BY MR. ROTTINGHAUS:</p> <p>21 Q. What you do know is it's an email that's 22 addressed to you, Mr. Chunderlik and Mr. Voyten?</p> <p>23 A. Correct.</p> <p>24 Q. And do you know whether you responded 25 with a question of him as to what he meant?</p>
<p style="text-align: right;">Page 179</p> <p>1 Q. And then would SOP potentially be 2 suspicious order policy?</p> <p>3 A. I would think either standard operating 4 procedure or in here it says summary of program.</p> <p>5 Q. Okay. So he's saying we need to lock 6 down a suspicious order -- you said monitoring -- 7 management or monitoring policy or standard 8 operating procedure ASAP?</p> <p>9 A. That's what he's stating.</p> <p>10 Q. And, obviously, we know what ASAP means.</p> <p>11 A. Yeah, right.</p> <p>12 Q. So is that your understanding, that he's 13 trying to raise the belief that the company, HBC, 14 needs to get a suspicious order management policy 15 in place?</p> <p>16 MR. BARNES: Object to form.</p> <p>17 THE WITNESS: I'm not sure because he 18 throws Sudafed into this mix, which is PSE. So I 19 don't know what the context of this questionnaire 20 is referring to, if he's referring to buying 21 Sudafed or some other products.</p> <p>22 BY MR. ROTTINGHAUS:</p> <p>23 Q. So you do think SOM stands for 24 suspicious order management?</p> <p>25 A. Based on the letters that I know, that</p>	<p style="text-align: right;">Page 181</p> <p>1 A. I don't. Do you have an email of my 2 response?</p> <p>3 Q. We've asked for emails. And we've got 4 what we've got. I don't believe we have a 5 response to that.</p> <p>6 A. So I'm not sure how I responded to this, 7 if I even -- I can't even confirm that I saw this.</p> <p>8 Q. Well, it would have gone into your 9 inbox; right?</p> <p>10 A. It would have gone into my inbox, yes.</p> <p>11 Q. Presumably, at some point, you would try 12 to see an email if it comes into your inbox?</p> <p>13 A. I try to read every single one of them.</p> <p>14 Q. I know it's hard to catch up sometimes. 15 But at some point, if you had a concern about what 16 he was saying, you would either email him back or 17 talk to him about it; right?</p> <p>18 A. Correct.</p> <p>19 Q. You don't remember ever saying to him, I 20 disagree with you that we need to get a suspicious 21 order management policy in place?</p> <p>22 A. We had conversations over the years 23 about enhancing our processes including suspicious 24 order monitoring. But specific to this particular 25 context, I can't provide any context to this.</p>

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1 Q. So you're now four and a half or close  
2 to five years into the process of distributing  
3 hydrocodone combination products from HBC  
4 warehouses to multiple Giant Eagle pharmacies;  
5 correct?  
6 A. Correct.  
7 Q. And at least it appears from this email  
8 that Mr. Millward is saying we need to lock down a  
9 suspicious order management policy.  
10 MR. BARNES: Object to form. The  
11 witness has already stated it relates to Sudafed.  
12 MR. ROTTINGHAUS: That misstates the  
13 testimony. It's just an interjection trying to  
14 coach the witness.  
15 MR. BARNES: No, I'm not. He said it  
16 first.  
17 THE WITNESS: I don't -- like I said, I  
18 don't know the context of what he's asking with  
19 those letters. I don't even recall this  
20 particular email. So it's hard for me to assume  
21 what Joe Millward was saying.  
22 BY MR. ROTTINGHAUS:  
23 Q. As someone in charge of the team that  
24 was responsible for compliance, however, you would  
25 want Joe to look into this issue if he thought it

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1 was an issue that the company needed to get a  
2 suspicious order management policy?  
3 A. When this email took --  
4 MR. BARNES: Object to form.  
5 THE WITNESS: Joe did not report to me  
6 at this time.  
7 BY MR. ROTTINGHAUS:  
8 Q. Who did he report to?  
9 A. Anthony Mollica, who's on this email.  
10 Q. So are you saying that it would be  
11 Anthony that you would expect to follow up with  
12 Joe with regard to any concerns or thoughts that  
13 Joe was expressing about this?  
14 A. He may have.  
15 Q. And, again, it's your testimony that not  
16 only you, but Anthony and you worked together to  
17 oversee compliance for the company?  
18 A. Yeah, in different components, yes.  
19 Q. Well, with respect to the component of  
20 implementing a suspicious order management policy,  
21 whose responsibility was that and who did that  
22 fall under?  
23 A. Well, it would -- again, you refer to  
24 this particular email. I can't answer in  
25 that directive.

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1 Q. That's a different question.  
2 A. Are you asking a different question?  
3 Q. Yeah. You don't need to look at the  
4 email for this question.  
5 With respect to the decision to implement a  
6 written suspicious order management policy in  
7 2014, four and a half or five years after  
8 hydrocodone combination products were getting  
9 distributed, whose decision was that and whose  
10 responsibility was that?  
11 A. I think it was obviously Joe being in  
12 charge of compliance felt we should write  
13 something down. I don't know who made the  
14 ultimate decision to do so.  
15 Q. Did either you or Mr. Mollica have to  
16 approve it if you wanted to implement a suspicious  
17 order policy in writing?  
18 A. It would go through our process to  
19 create a policy.  
20 Q. And you don't have any memory about that  
21 process?  
22 A. Like I had mentioned I think earlier,  
23 policies would be put together by a group of  
24 people.  
25 Q. Right.

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1 A. Including legal, the legal team  
2 involvement and things like that.  
3 Q. I'm talking about just the suspicious  
4 order management policy that was put into effect  
5 at least as of 2015, if not 2014. Do you know  
6 whose responsibility that fell under?  
7 A. In 2014? What part of 2014?  
8 Q. We'll look.  
9 A. Again, it depends on when Mr. Mollica  
10 left the company.  
11 Q. August 1, 2014 under whose  
12 responsibility would the implementation of a  
13 written suspicious order management policy have  
14 been under?  
15 A. In August of 2014?  
16 Q. Yes.  
17 A. Was Mr. Mollica still with the company?  
18 Q. No.  
19 A. Again, I'm not sure who would be  
20 responsible for --  
21 Q. Is it possible it would be you?  
22 A. It's possible.  
23 Q. You took over for Mr. Mollica as VP of  
24 pharmacy operations, I believe, around March of  
25 2014.

<p style="text-align: right;">Page 186</p> <p>1 A. It could be.</p> <p>2 Q. So at least if it was between March of</p> <p>3 2014 and August of 2014 that the implementation of</p> <p>4 a suspicious order policy was put in place, that</p> <p>5 would have been under you?</p> <p>6 MR. BARNES: Object to form.</p> <p>7 THE WITNESS: Again, it wasn't one</p> <p>8 person that set a policy. So would it have fallen</p> <p>9 under me? Approved by me? I didn't approve</p> <p>10 policies. Policies were approved by committee.</p> <p>11 BY MR. ROTTINGHAUS:</p> <p>12 Q. You didn't draft them either?</p> <p>13 A. I didn't draft any particular policy. I</p> <p>14 was involved in the process.</p> <p>15 Q. And it appears that you weren't</p> <p>16 spearheading -- from documents I've seen, I don't</p> <p>17 see anything to indicate that you were personally,</p> <p>18 Mr. Carlson, spearheading the drafting and</p> <p>19 implementation of a written suspicious order</p> <p>20 policy for HBC; is that correct?</p> <p>21 A. Can you rephrase the question?</p> <p>22 Q. Sure. From my review of the documents</p> <p>23 that have been given to us, from the testimony of</p> <p>24 the witnesses, from your own testimony today, it's</p> <p>25 my understanding that you, Mr. Carlson, would not</p>	<p style="text-align: right;">Page 188</p> <p>1 BY MR. ROTTINGHAUS:</p> <p>2 Q. Let's start at the first page, 001,</p> <p>3 first. And then we're going to be referring to</p> <p>4 001.5 in just a second.</p> <p>5 So as I understand it, like many companies,</p> <p>6 Giant Eagle would have a business plan they would</p> <p>7 put in place and perhaps at some point during the</p> <p>8 year review what its business plan would be for</p> <p>9 various operations?</p> <p>10 A. Yes.</p> <p>11 Q. That's pretty common in business;</p> <p>12 correct?</p> <p>13 A. Correct.</p> <p>14 Q. I will represent to you this has been</p> <p>15 provided by the company as part of the pharmacy</p> <p>16 business plan for fiscal year 2015. Okay?</p> <p>17 And if we look at what I refer to as page 5</p> <p>18 of the PowerPoint, it's 001.5, right in the middle</p> <p>19 of that we see a box that says Implement</p> <p>20 Controlled Substances Ordering System. Are you</p> <p>21 with me?</p> <p>22 A. Yes.</p> <p>23 Q. Now, it appears that at least -- I</p> <p>24 should back up, in fairness, to say I mentioned</p> <p>25 2015, but it appears from page 1 of this document</p>
<p style="text-align: right;">Page 187</p> <p>1 have been the individual responsible for the</p> <p>2 creation and implementation of a written</p> <p>3 suspicious order management policy for HBC in</p> <p>4 2014.</p> <p>5 MR. BARNES: Object to form.</p> <p>6 THE WITNESS: Do you mean the one which</p> <p>7 was actually put into place?</p> <p>8 BY MR. ROTTINGHAUS:</p> <p>9 Q. Yes.</p> <p>10 A. Again, I don't know how to answer that</p> <p>11 question because it wasn't something that I --</p> <p>12 (HBC-Carlson Exhibit 23 was marked.)</p> <p>13 BY MR. ROTTINGHAUS:</p> <p>14 Q. We'll come back to it. Let's look at</p> <p>15 Exhibit 23. Again, I apologize for the length,</p> <p>16 but to make sure we encapsulated everything, we've</p> <p>17 copied the entirety of this document.</p> <p>18 And so that your counsel knows, I've tabbed</p> <p>19 with a yellow tab on your copy page 5 of what I</p> <p>20 understand to be perhaps a PowerPoint. It appears</p> <p>21 to be a PowerPoint presentation to me. I'll show</p> <p>22 your attorney what I'm looking at.</p> <p>23 MR. BARNES: Marked HBC_34119?</p> <p>24 MR. ROTTINGHAUS: Yeah. That's the</p> <p>25 exact number. The reference number is 1003.</p>	<p style="text-align: right;">Page 189</p> <p>1 that the presentation was June 24, 2014. Do you</p> <p>2 see that at the bottom?</p> <p>3 A. Yes. Our fiscal year started in July.</p> <p>4 Q. So it appears that you would be maybe or</p> <p>5 somebody would be presenting this on June 24,</p> <p>6 2014?</p> <p>7 A. Yes.</p> <p>8 Q. Let's go back to that page 5 where we</p> <p>9 looked at that box. One of the initiatives is</p> <p>10 to -- let's go one above the "implement" where it</p> <p>11 says "enhance."</p> <p>12 Here we see one of the target initiatives is</p> <p>13 to enhance a suspicious order monitoring system at</p> <p>14 HBC; correct?</p> <p>15 A. Correct.</p> <p>16 Q. And then it references, I think, the</p> <p>17 same provision we've been looking at for quite a</p> <p>18 bit of the day today --</p> <p>19 A. Yes.</p> <p>20 Q. -- of the Code of Federal Regulations;</p> <p>21 is that right?</p> <p>22 A. Correct.</p> <p>23 Q. And then the owner of this is mentioned</p> <p>24 to be Joe at HBC, and I'm assuming we're talking</p> <p>25 about Mr. Millward?</p>



<p style="text-align: right;">Page 190</p> <p>1 A. Yes.</p> <p>2 Q. And then there's a target date, and what</p> <p>3 does that say?</p> <p>4 A. To be determined.</p> <p>5 Q. And so looking at this document, at</p> <p>6 least as of June 2014, and recalling that we were</p> <p>7 looking at an email from Mr. Millward talking</p> <p>8 about needing to lock down an SOM SOP, does that</p> <p>9 refresh your recollection that there was</p> <p>10 discussion about getting a written suspicious</p> <p>11 order management policy in place for HBC in 2014?</p> <p>12 MR. BARNES: Object to form.</p> <p>13 THE WITNESS: I never denied that we</p> <p>14 were working on enhancing the suspicious order</p> <p>15 monitoring system. So as far as a written policy,</p> <p>16 I don't recall that part of it. But enhancing a</p> <p>17 suspicious order monitoring system was always --</p> <p>18 had been a discussion ever since we started.</p> <p>19 BY MR. ROTTINGHAUS:</p> <p>20 Q. Do you think creating a written</p> <p>21 suspicious order policy would be an enhancement to</p> <p>22 the suspicious order management system?</p> <p>23 A. It wouldn't hurt, but a policy doesn't</p> <p>24 do anything.</p> <p>25 Q. It's got to be followed in order --</p>	<p style="text-align: right;">Page 192</p> <p>1 well. And for the department, you'll see on the</p> <p>2 right-hand corner it says Department - HBC Service</p> <p>3 Company; correct?</p> <p>4 A. Yes.</p> <p>5 Q. And then to the left we see there's a</p> <p>6 policy number. Then we have an effective date,</p> <p>7 and the effective date says August 1, 2014.</p> <p>8 A. Okay.</p> <p>9 Q. Now, again, referencing you before to</p> <p>10 Exhibit 21, we have been provided information by</p> <p>11 the company that the first written suspicious</p> <p>12 order policy was indeed this policy. Okay?</p> <p>13 A. Okay.</p> <p>14 Q. Do you have any reason to believe there</p> <p>15 was any other written suspicious order policy</p> <p>16 prior to August of 2014?</p> <p>17 A. Not in this format. I don't know of any</p> <p>18 other written documents. This one came about from</p> <p>19 our process to get VAWD certification for</p> <p>20 distribution to the State of Maryland. As part of</p> <p>21 VAWD, we had to formalize documents obviously into</p> <p>22 a format required by VAWD. I'm not sure if you're</p> <p>23 familiar with VAWD.</p> <p>24 Q. I am. In fact, VAWD requires certain</p> <p>25 policies and procedures to be created and</p>
<p style="text-align: right;">Page 191</p> <p>1 A. Exactly.</p> <p>2 Q. -- for it to do something?</p> <p>3 A. Right. A policy is great, but what you</p> <p>4 do with it is something else.</p> <p>5 Q. And hopefully when a policy is created</p> <p>6 in writing, it's going to be followed by the</p> <p>7 company; correct?</p> <p>8 A. Correct.</p> <p>9 (HBC-Carlson Exhibit 24 was marked.)</p> <p>10 BY MR. ROTTINGHAUS:</p> <p>11 Q. Let's look at Exhibit 24.</p> <p>12 MR. ROTTINGHAUS: Reference number 12.</p> <p>13 BY MR. ROTTINGHAUS:</p> <p>14 Q. So we've been talking about a written</p> <p>15 suspicious order policy, and I'll represent to you</p> <p>16 that Exhibit 24 contains several I'll call them</p> <p>17 iterations of what appear to be a written policy</p> <p>18 or system for suspicious orders.</p> <p>19 A. Okay.</p> <p>20 Q. And the first page of this document,</p> <p>21 Exhibit 24, is, as I understand it, listed as</p> <p>22 Revision No. 2 with a revision date of April 9,</p> <p>23 2015. Are you with me?</p> <p>24 A. Yes.</p> <p>25 Q. We're going to highlight it up here as</p>	<p style="text-align: right;">Page 193</p> <p>1 implemented and followed by any distributor that</p> <p>2 wants to receive that certification.</p> <p>3 A. Correct.</p> <p>4 Q. And some states actually require a</p> <p>5 distributor that distributes controlled substances</p> <p>6 to that state to be VAWD certified; correct?</p> <p>7 MR. BARNES: Object to form.</p> <p>8 THE WITNESS: Correct, except the states</p> <p>9 that we were distributing to at the time didn't</p> <p>10 require that.</p> <p>11 BY MR. ROTTINGHAUS:</p> <p>12 Q. However, you're saying that one of the</p> <p>13 states you were distributing to did tell you that</p> <p>14 at least as of 2015 or 2014, if you want to</p> <p>15 distribute in our state, you have to be VAWD</p> <p>16 certified.</p> <p>17 A. Correct, because a number of -- a couple</p> <p>18 of states require VAWD certification.</p> <p>19 Q. And prior to -- was it 2014 or 2015 that</p> <p>20 HBC became VAWD certified?</p> <p>21 A. I can't recall.</p> <p>22 Q. The effective date is August 1, 2014.</p> <p>23 A. We went through a process with the VAWD,</p> <p>24 and then there was discussions about discontinuing</p> <p>25 HBC Services facility.</p>

<p style="text-align: right;">Page 194</p> <p>1 Q. Let's look at Exhibit 24 under the  2 policy section. First of all, let's go under  3 where it says -- forgive me. Let's go to where it  4 says Purpose or Objective. Tell me if I'm reading  5 this wrong, but it appears to say that "The  6 purpose of this suspicious order policy is to  7 identify, investigate, record and report  8 suspicious pharmaceutical product orders"; is that  9 correct?  10 A. Yes.  11 Q. And that's a good idea, in your opinion;  12 correct?  13 A. Yes.  14 Q. And then if we go to the policy section,  15 it states that "Identified individuals from Giant  16 Eagle, pharmacy compliance and HBC team members  17 must review pharmacy customer orders and order  18 trends on a regular and for cause basis to  19 identify suspicious drug orders."  20 Did I read that correctly?  21 A. Yes.  22 Q. And that policy makes sense to you; does  23 it not?  24 A. Yes.  25 Q. And then it states, "Suspicious orders</p>	<p style="text-align: right;">Page 196</p> <p>1 Q. And under the second bullet, there's a  2 description given to what is a suspicious order  3 criteria; is that right?  4 A. Yes.  5 Q. And it says, "Suspicious order criteria  6 include, but are not limited to, the following:  7 Purchases over a defined period that exceeded  8 predetermined thresholds."  9 That's one of them; correct?  10 A. Yes.  11 Q. Mr. Carlson, at least with respect to  12 the one control report that we looked at, weren't  13 there multiple stores ordering hydrocodone  14 combination products in excess of their  15 thresholds?  16 MR. BARNES: Object to form.  17 THE WITNESS: In that report there were  18 some stores that would have been investigated.  19 They weren't at that point considered suspicious  20 orders.  21 BY MR. ROTTINGHAUS:  22 Q. If an investigation takes place at any  23 of your stores between 2009 and 2014, you expect  24 there to be some written report of the  25 investigation; correct?</p>
<p style="text-align: right;">Page 195</p> <p>1 are blocked and reported to the appropriate  2 regulatory authority within the specified  3 timeframe as required."  4 Does it say that?  5 A. Yes.  6 Q. And that makes sense to you as well?  7 A. Yes.  8 Q. And that's what you would expect of your  9 team?  10 A. Yes.  11 Q. And just because this document was put  12 in writing in August of 2014, you expected your  13 team to be following this process prior to August  14 of 2014?  15 MR. BARNES: Object to form.  16 THE WITNESS: I would have to review the  17 whole policy to see if anything has changed in our  18 process. I mean, things do change as time goes  19 on. So I'd have to, you know -- I'd have to  20 research that a little bit more.  21 BY MR. ROTTINGHAUS:  22 Q. Under procedures on this same page,  23 there are some bullets that kind of make some  24 statements; correct?  25 A. Yes.</p>	<p style="text-align: right;">Page 197</p> <p>1 A. No.  2 Q. You don't think written documentation of  3 an investigation is required or a good idea for a  4 store?  5 MR. BARNES: Object to form.  6 THE WITNESS: We followed whatever the  7 requirement of the DEA was in place. So there was  8 no record keeping requirements as part of the  9 provision. So it wasn't something that we had  10 done.  11 BY MR. ROTTINGHAUS:  12 Q. Do you think it's a good idea for a  13 company like HBC to document what steps it's  14 taking to attempt to comply with the law?  15 MR. BARNES: Object to form.  16 THE WITNESS: I haven't really thought  17 about it. I don't have an opinion on that.  18 BY MR. ROTTINGHAUS:  19 Q. So between 2009 and 2014, you never gave  20 any thought to whether if there is an  21 investigation taking place for an order that's  22 exceeding a threshold limit, we should document in  23 some way what steps we are taking to make sure  24 that it's not a suspicious order?  25 A. We had tight controls in place that</p>

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1 followed the full security measures of this, not  
2 just 1301.74, but all of 1301. So this one small  
3 subset was not our entire process.  
4 So we were very confident and comfortable  
5 that we had one of the best systems in place to  
6 monitor it.  
7 Q. What were the tight controls in place to  
8 on a daily basis follow up and make sure that any  
9 orders that were deemed to be in excess of  
10 thresholds were not suspicious orders before they  
11 got shipped? Tell me about that tight process.  
12 A. So when you say they were suspicious  
13 orders --  
14 Q. Nope, I didn't. Let's listen to my  
15 question. If I did, I apologize. I didn't mean  
16 to.  
17 What was this tight process you've just told  
18 us about? Well, let me ask it this way: Would  
19 you agree that in order for this process to be  
20 tight, whenever there was an order that exceeded  
21 the threshold limits, someone at HBC needed to  
22 take some steps to find out why that order was  
23 exceeding threshold limits?  
24 MR. BARNES: Object to form. Calls for  
25 speculation.

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1 THE WITNESS: You're asking if someone  
2 at HBC had to find out if it was a suspicious  
3 order based on thresholds?  
4 BY MR. ROTTINGHAUS:  
5 Q. Do you believe they should have?  
6 MR. BARNES: HBC or Giant Eagle?  
7 MR. ROTTINGHAUS: HBC.  
8 THE WITNESS: Well, HBC was -- the  
9 reporting was all done at corporate level.  
10 BY MR. ROTTINGHAUS:  
11 Q. Well, wherever, let me ask you this: Do  
12 you believe that in order to keep a tight process  
13 in place -- I think you used the term we had a  
14 tight process.  
15 A. Um-hum.  
16 Q. In order to maintain a tight process  
17 between 2009 and 2014, don't you agree that it  
18 would have been a good idea to document what steps  
19 were being taken to follow up on any orders that  
20 exceeded thresholds for hydrocodone combination  
21 products?  
22 MR. BARNES: Object to form. Asked and  
23 answered.  
24 THE WITNESS: I don't think -- I don't  
25 see the benefit of documentation.

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1 BY MR. ROTTINGHAUS:  
2 Q. Would one benefit of the documentation  
3 be the ability to show any regulatory body that  
4 HBC did indeed take steps to maintain a system, to  
5 implement, design and operate a system to disclose  
6 the presence of suspicious orders?  
7 A. When we opened HBC, we received our DEA,  
8 we were inspected by the DEA. They came in. They  
9 looked at all of our security features related to  
10 this Controlled Substances Act, looked at all of  
11 our processes.  
12 Our security, according to them, fit all  
13 requirements, all the needed necessary steps. We  
14 were acting upon that. There was nothing in the  
15 provision that said we had to keep documentation  
16 for any period of time on any investigation.  
17 We did our process. If there was any  
18 suspicion come up, we investigated it thoroughly,  
19 made our decision. And I can't even think of a  
20 time where we -- maybe there was a couple, but not  
21 that I can recall, an example when there was a  
22 suspicious order that we actually defined. I'm  
23 not saying it didn't happen, but I can't recall an  
24 example.  
25 MR. ROTTINGHAUS: Object and move to

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1 strike as nonresponsive.  
2 BY MR. ROTTINGHAUS:  
3 Q. I'm going to ask you a question, and if  
4 you can tell me "yes" or "no," I would appreciate  
5 it. And if you can't, that's fine. Just let me  
6 know that you can't. Okay?  
7 A. Okay.  
8 Q. And then you can explain why you can't.  
9 Don't you think it would have been a good  
10 idea between 2009 and 2014 for someone at either  
11 Giant Eagle or HBC to document any steps that were  
12 taken to follow up on any orders that exceeded  
13 thresholds and to show what due diligence was done  
14 to determine that they were not indeed suspicious  
15 orders?  
16 MR. BARNES: Objection. Asked and  
17 answered I think at least twice.  
18 BY MR. ROTTINGHAUS:  
19 Q. "Yes" or "no," if you can. If not --  
20 A. Do I think it would be a good idea?  
21 Q. Yes.  
22 A. No.  
23 Q. If we look at this policy, Exhibit 24,  
24 if we can go to the second page of it -- actually,  
25 forgive me. Let's go back to the first page, the

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1 bottom two bullets. We're still under Procedures.  
 2 Second from the bottom says, "Identified orders  
 3 are investigated to determine if the order is  
 4 suspicious or legitimate"; right?  
 5 A. Yes.  
 6 Q. And then the next bullet states,  
 7 "Legitimate orders are released for processing and  
 8 delivery to the customer"; correct?  
 9 A. That's what it states.  
 10 Q. Now, as you read this Exhibit 24 and  
 11 those two bullets, does it suggest to you that if  
 12 an order is identified as one that needs to be  
 13 investigated in any respect, that order should not  
 14 be shipped. Instead, it should first be  
 15 investigated, and then if it's determined to be a  
 16 legitimate order, it can then be released for  
 17 processing and delivery?  
 18 A. That's what this policy states.  
 19 Q. And, in fact, prior to 2014, there was  
 20 no such system in place at HBC or Giant Eagle to  
 21 make sure that orders exceeding thresholds were  
 22 not shipped until due diligence was done; correct?  
 23 A. Correct. The product was shipped, and  
 24 then due diligence was done, but the product was  
 25 still within Giant Eagle's possession.

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1 Q. Now, on the second page, first bullet at  
 2 the top -- we're going to go through all three of  
 3 these -- it states, "Suspicious orders are blocked  
 4 and reported to the applicable regulatory  
 5 authorities within the timeframe specified";  
 6 correct?  
 7 A. Yes.  
 8 Q. And then the next bullet says, "HBC  
 9 prepares and communicates any history of  
 10 suspicious orders to the Giant Eagle pharmacy team  
 11 as requested."  
 12 A. Yes.  
 13 Q. And then "HBC retains the records of the  
 14 investigation and outcome for six years."  
 15 Did you have any input on the decision that  
 16 HBC should retain records of any investigation and  
 17 the outcome for six years?  
 18 A. My guess would be that came from our  
 19 legal recommendation.  
 20 Q. Now, to your knowledge, were records of  
 21 investigations done between 2009 and 2014 and  
 22 documented and kept?  
 23 MR. BARNES: Object to form. Asked and  
 24 answered.  
 25 THE WITNESS: No, they weren't.

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1 BY MR. ROTTINGHAUS:  
 2 Q. I may have asked a double negative, and  
 3 I didn't mean to. So in case I confused you, I  
 4 want to make sure I didn't.  
 5 To your knowledge, between 2009 and 2014, is  
 6 it fair to say that HBC did not regularly record  
 7 any investigation or due diligence that was done  
 8 with respect to any order that it felt needed to  
 9 be investigated?  
 10 MR. BARNES: Object to form. Vague  
 11 question. What do you mean by record?  
 12 MR. ROTTINGHAUS: I don't mean to be  
 13 vague.  
 14 BY MR. ROTTINGHAUS:  
 15 Q. Do you know what I mean when I say  
 16 record or document?  
 17 A. Retain records.  
 18 Q. Yeah. You've told me before that not  
 19 all -- well, let me back up. Let me just ask it  
 20 this way and see if I can clarify.  
 21 Would you agree that between 2009 and 2014,  
 22 on occasions when there was any follow-up on an  
 23 order that exceeded threshold, you're not aware of  
 24 any documentation being kept of that?  
 25 MR. BARNES: Do you mean other than what

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1 is shown in emails and things of that nature?  
 2 MR. ROTTINGHAUS: That's just coaching  
 3 the witness because I don't even know what emails  
 4 I've shown him in that nature. I'll just ask it  
 5 again. If it's an objectionable question, tell  
 6 me. I'll rephrase it. I'm going to ask it again.  
 7 MR. BARNES: You're welcome to ask  
 8 again, but you've shown him a series of exhibits.  
 9 I can look right --  
 10 MR. ROTTINGHAUS: You'll get a chance to  
 11 direct examine him and show him all these exhibits  
 12 you say I've shown him. I'm not meaning to  
 13 mislead him and I haven't tried to once today. So  
 14 I apologize if I did.  
 15 MR. BARNES: I don't know what you mean  
 16 by records.  
 17 MR. ROTTINGHAUS: Let me try it again.  
 18 BY MR. ROTTINGHAUS:  
 19 Q. Do you know what records are? We've  
 20 talked about records today and record keeping,  
 21 haven't we?  
 22 A. Yes.  
 23 Q. Let's lay a little foundation.  
 24 Companies document records every day about  
 25 different things that go on in the company; right?



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1 A. Yes.  
2 Q. Typically that gets done in writing when  
3 it's documented; right?  
4 A. Correct.  
5 Q. When recorded, it's either done audibly  
6 or in writing?  
7 A. Yeah. Audibly, I guess, we don't do  
8 audible records. Paper.  
9 Q. Records that were kept at Giant Eagle or  
10 HBC were kept in writing to your knowledge;  
11 correct?  
12 A. What type of records?  
13 Q. Records that were kept were kept in  
14 writing; correct?  
15 A. Yes.  
16 Q. It might be electronically, too?  
17 A. Yes.  
18 Q. Now, according to this policy on  
19 Exhibit 24, the bottom bullet says, "HBC retains  
20 the records of its investigation and outcome for  
21 six years"; correct?  
22 A. That's what this states, yes.  
23 Q. Does this suggest to you that some  
24 record is going to be made of any investigation  
25 that's done?

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1 A. It suggests that as of the writing of  
2 this policy, yes.  
3 Q. And, again, we talked before about the  
4 daily control reports from 2013 until you stopped  
5 getting them that would issue a report for  
6 products that exceeded thresholds; right?  
7 A. Yes.  
8 Q. On those days where orders exceeded  
9 thresholds for hydrocodone combination products  
10 between 2009 and 2014, would you agree with me  
11 that you're not aware of any routine documentation  
12 or record keeping of any investigation or due  
13 diligence that was done to find out why those  
14 orders were exceeding thresholds?  
15 MR. BARNES: Object to form. Misstates  
16 the evidence.  
17 THE WITNESS: I don't recall any special  
18 file that was created for record keeping. There  
19 are email history of emails going back and forth.  
20 Obviously, you've shown me a number of emails  
21 today. So that would be a form of record.  
22 BY MR. ROTTINGHAUS:  
23 Q. Are you saying it should have been kept  
24 in a record form?  
25 A. I didn't say that.

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1 Q. And what I'm asking is: To your  
2 knowledge, every follow-up investigation done, was  
3 it kept or recorded?  
4 A. No. I mean, there was -- a record was  
5 not created, stored specifically from each  
6 investigation, if that's what you're asking. So  
7 when I think of a record, and I could be wrong  
8 with this, I think of a file that says HBC  
9 investigations and everything is in this file.  
10 I do not -- I cannot say that we had a file  
11 that said HBC investigations.  
12 Q. If your team members in compliance were  
13 doing investigations to make sure the company was  
14 complying with federal regulations, would you  
15 expect them to record those investigations?  
16 MR. BARNES: Object to form.  
17 THE WITNESS: Say that again.  
18 BY MR. ROTTINGHAUS:  
19 Q. If your team members in compliance,  
20 whether it be Mr. Millward, Mr. Chunderlik or  
21 someone else, were, in fact, conducting  
22 investigations at any point in time to determine  
23 whether the store was complying with the  
24 Controlled Substances Act, would you have expected  
25 them as part of your team to have recorded those

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1 investigations in writing?  
2 MR. BARNES: Object to form.  
3 THE WITNESS: I can't -- no would be my  
4 answer.  
5 BY MR. ROTTINGHAUS:  
6 Q. And the reality is that although there  
7 were daily threshold reports issued, you said that  
8 by the time those reports would come across your  
9 desk at least, those products had already left the  
10 HBC warehouse to the pharmacies.  
11 A. Yes.  
12 (HBC-Carlson Exhibit 25 was marked.)  
13 BY MR. ROTTINGHAUS:  
14 Q. And to your knowledge, was there -- let  
15 me ask you this. Let me show you Exhibit 25. I  
16 know your attorney is going to have an objection,  
17 so give him a chance to make it.  
18 I'll represent to you that the documents in  
19 Exhibit 25 were not prepared by HBC or Giant  
20 Eagle, just so you know. Okay?  
21 A. Okay.  
22 Q. But I want to just ask you about a  
23 couple of numbers that are referenced here. First  
24 of all, I'm assuming you have not done any  
25 research yourself to find out how many dosage

<p style="text-align: right;">Page 210</p> <p>1 units of any hydrocodone combination products were          2 shipped to Giant Eagle pharmacies in any county of          3 Ohio between 2009 and 2014.          4 A. No. I've not done any research.          5 MR. BARNES: Let me interpose, as you          6 expected, my objection to this exhibit both in          7 terms of its -- I don't know who prepared this,          8 how it was prepared and what dosage units means.          9 In addition, it exceeds -- it goes beyond the          10 Case Track 1 jurisdiction to include Ohio numbers.          11 So we object to that entire portion of the          12 exhibit. I've never seen the last page.          13 MR. ROTTINGHAUS: Is that an objection,          14 that you've never seen the last page?          15 MR. BARNES: Yeah. I've seen this in          16 almost identical form, but it looks like a new          17 page has been added.          18 MR. ROTTINGHAUS: I can guarantee you I          19 didn't prepare it. So whatever it is it is.          20 MR. BARNES: Can't slip one past me.          21 MR. ROTTINGHAUS: Yeah, I can tell.          22 MS. CHARLES: I'll join on behalf of          23 McKesson.          24 BY MR. ROTTINGHAUS:          25 Q. Let me ask you this. I need to ask you</p>	<p style="text-align: right;">Page 212</p> <p>1 distributed by a distributor to particular          2 jurisdiction?          3 A. Correct.          4 Q. And that's through the ARCOS system?          5 A. Yes.          6 MR. BARNES: Can you tell me what a          7 dosage unit is?          8 MR. ROTTINGHAUS: No, I cannot.          9 BY MR. ROTTINGHAUS:          10 Q. After you stopped personally doing the          11 uploads, who was it at the company that you relied          12 on to do the uploads, if you remember?          13 A. It was either given to Dan Beiter or          14 Kris Remas to do.          15 Q. Regardless, HBC attempted to keep track          16 of that transactional data and record it so that          17 it could report the appropriate ARCOS data?          18 A. Yes.          19 Q. It's an example of a company trying to          20 document things to make sure it's complying with          21 the law?          22 A. Yes.          23 Q. And then either Giant Eagle on behalf of          24 HBC or HBC submitted the ARCOS data to the DEA          25 through an upload?</p>
<p style="text-align: right;">Page 211</p> <p>1 a few background questions, Mr. Carlson. Do you          2 know what ARCOS is?          3 A. Yes.          4 Q. Were you responsible in any way during          5 your tenure at Giant Eagle for making sure that          6 any data that needed to be reported to ARCOS by          7 HBC from 2009 to 2014 was indeed reported?          8 A. Yes.          9 Q. Did you have someone who assisted you in          10 that reporting, or did you directly as the person          11 report that data?          12 A. I know I did the first few uploads of          13 data. I had to have IT pull together the report          14 in the format that's required for the ARCOS          15 upload, upload the file to ARCOS. ARCOS would          16 then either -- if there was any data -- it had to          17 be in a certain format. If it rejected anything,          18 it would pop back, and we'd have to resolve that          19 with the ARCOS folks.          20 So to start, I was the one uploading the file          21 to the website. And then I believe that was          22 handed off to somebody else at some point in time.          23 Q. Is it your understanding that if data is          24 reported directly, one can determine exactly how          25 many dosage units of controlled substances are</p>	<p style="text-align: right;">Page 213</p> <p>1 A. Yes.          2 Q. I'll represent to you that page 1 of          3 Exhibit 25 is a chart again not created by HBC or          4 Giant Eagle that references hydrocodone products.          5 Here's my question for you: Do you have any          6 personal knowledge as to how many dosage units of          7 hydrocodone combination products were distributed          8 by HBC to any county in Ohio between 2009 and          9 2014?          10 A. Not specific to any county, no.          11 Q. We've attempted to document some of the          12 numbers on this first page from HBC Service          13 Company to Cuyahoga County, Ohio.          14 Do you see the column I'm looking at, HBC          15 Service Company?          16 A. Yes.          17 Q. I think it's highlighted as well.          18 Are you aware of any suspicious orders that          19 were ever reported for hydrocodone combination          20 products between 2009 and 2014 at HBC?          21 A. Am I aware of any?          22 Q. Yes.          23 A. I cannot recall any.          24 Q. If this data is correct, there were over          25 10 million dosage units of hydrocodone combination</p>

<p style="text-align: right;">Page 214</p> <p>1 products distributed to Cuyahoga County by HBC  2 between 2009 and 2014.  3 A. I can't validate that. I mean, if  4 that's what the report says, I certainly can't  5 confirm that.  6 Q. Does it surprise you that, assuming  7 there were indeed that many dosage units  8 distributed, there wouldn't be one suspicious  9 order ever reported?  10 MR. BARNES: Object to form. Misstates  11 the evidence, as you know.  12 MR. ROTTINGHAUS: I don't know what Tim  13 did. I don't intend to misstate the evidence.  14 MR. BARNES: Well, you know there was --  15 MR. ROTTINGHAUS: Maybe I am misstating.  16 I don't mean to. You can go ahead and say it.  17 MR. BARNES: There were a couple of  18 suspicious order reports.  19 MR. ROTTINGHAUS: Was it for  20 hydrocodone?  21 MR. BARNES: No.  22 MR. ROTTINGHAUS: That's what I'm  23 saying, hydrocodone products. Let me ask it again  24 to make sure I clarify.  25</p>	<p style="text-align: right;">Page 216</p> <p>1 A. Yes.  2 Q. And if the numbers are correct, does it  3 surprise you that there were 8,892,000 dosage  4 units of hydrocodone combination products  5 distributed to Summit County, Ohio between 2009  6 and 2014 without any suspicious orders ever being  7 reported for that product by HBC or on behalf of  8 HBC?  9 MR. BARNES: Object to form.  10 THE WITNESS: It doesn't surprise me.  11 We didn't have a whole lot of suspicious orders  12 overall. I couldn't even remember an example  13 specifically.  14 BY MR. ROTTINGHAUS:  15 Q. You can't remember an example of ever  16 finding a suspicious order?  17 A. I mean, I can't give you an example. I  18 just don't remember.  19 Q. Are you aware between 2009 and 2014 of  20 any documentation by any of the Giant Eagle  21 pharmacies of a refusal by a pharmacy or a  22 pharmacy team member to sell a hydrocodone  23 combination product to a customer?  24 A. Do I -- can you state the first part of  25 that question again?</p>
<p style="text-align: right;">Page 215</p> <p>1 BY MR. ROTTINGHAUS:  2 Q. Assuming these data are correct, does it  3 surprise you that there was never a suspicious  4 order reported by or on behalf of HBC Service  5 Company between 2009 and 2014 for any hydrocodone  6 combination product to Cuyahoga County?  7 MR. BARNES: Object to form.  8 THE WITNESS: It doesn't surprise me.  9 You're talking about -- Cuyahoga is a small area.  10 BY MR. ROTTINGHAUS:  11 Q. That's a lot of units, isn't it?  12 A. Well, you're talking about tablets now.  13 These aren't bottles.  14 Q. Pills; right?  15 A. Right, I mean, but what is the -- in  16 reference to how many did Walgreens, CVS,  17 Rite-Aid -- how many did they do, what was the  18 market share in the area, how many stores did we  19 have in Cuyahoga. I don't even know off the top  20 of my head how many stores we had in Cuyahoga.  21 There's a lot of factors other than throwing  22 10 million tablets out there. I just don't know.  23 Q. Let's look at page 3 of this exhibit.  24 If I'm looking at the correct table, it say Dosage  25 Units to Summit County, Ohio. Are you with me?</p>	<p style="text-align: right;">Page 217</p> <p>1 Q. Sure. Are you aware of any logs or any  2 documentation of any Giant Eagle retail pharmacy  3 team member refusing to sell or dispense a  4 hydrocodone combination product to a customer?  5 A. I don't know of a log that would record  6 that other than maybe sending an email to the  7 district leader to state that they did that. But  8 not like an official record keeping log, if that's  9 what you're kind of asking for.  10 MR. ROTTINGHAUS: That's all I have.  11 MR. BARNES: Then I'll just jump right  12 in.  13 THE VIDEOGRAPHER: The time is 2:21.  14 (Recess from 2:21 p.m. to 2:27 p.m.)  15 THE VIDEOGRAPHER: On the record 2:27.  16 EXAMINATION  17 BY MR. BARNES:  18 Q. Good afternoon, Mr. Carlson. I have  19 some follow-up questions.  20 You were asked a lot questions today by  21 plaintiffs' counsel about the so-called suspicious  22 order regulation 1301.74(b).  23 A. Yes.  24 Q. But you were never shown the 1301.71,  25 which is the security -- I'll tell you it's the</p>

<p style="text-align: right;">Page 218</p> <p>1 security requirement regulation.  2 Are you familiar with that regulation?  3 A. I have reviewed it before.  4 Q. That regulation requires applicants and  5 registrants to provide effective controls and  6 procedures to guard against theft and diversion of  7 controlled substances.  8 Does that refresh your recollection?  9 A. Yes.  10 Q. Did Giant Eagle in the entire time that  11 you were there meet this regulation?  12 MR. ROTTINGHAUS: Objection. Form;  13 insufficient foundation.  14 THE WITNESS: Yes.  15 BY MR. BARNES:  16 Q. Did Giant Eagle have controls to guard  17 against theft and diversion?  18 A. Yes.  19 Q. And were those controls at multiple  20 levels of the organization?  21 MR. ROTTINGHAUS: Objection.  22 Foundation.  23 THE WITNESS: Yes.  24 BY MR. BARNES:  25 Q. Were they at the corporate level?</p>	<p style="text-align: right;">Page 220</p> <p>1 things such as the type and form of controlled  2 substances being handled?  3 MR. ROTTINGHAUS: Objection. Leading.  4 THE WITNESS: Do I understand that?  5 Yes.  6 BY MR. BARNES:  7 Q. In terms of the DEA deciding whether  8 Giant Eagle met or HBC met the security  9 requirement, one factor in the security regulation  10 is what are you distributing?  11 A. Yes.  12 Q. And HBC never distributed controlled  13 substance level II; is that correct?  14 A. Correct.  15 Q. Do you also understand the regulation to  16 involve the quantity of controlled substances  17 being handled in terms of whether or not the  18 security requirement was being met? That's  19 something that the DEA would look at?  20 A. Yes.  21 Q. In terms of quantities, I know you just  22 said that HBC never did level IIs, but the level  23 IIIs, IVs and Vs that it did do, was it all IIIs,  24 IVs and Vs or was it just some of the IIIs, IVs  25 and Vs that the pharmacies was distributing?</p>
<p style="text-align: right;">Page 219</p> <p>1 A. Yes.  2 Q. Were they at the warehouse level?  3 MR. ROTTINGHAUS: Same objection.  4 THE WITNESS: Yes.  5 BY MR. BARNES:  6 Q. And were they at the store level?  7 A. Yes.  8 Q. You're a pharmacist yourself; correct?  9 A. Yes.  10 Q. You have a doctorate degree in pharmacy?  11 A. Yes.  12 Q. And you've served as a pharmacist in not  13 only Giant Eagle pharmacies, but other pharmacies?  14 A. Yes.  15 Q. Do you believe that Giant Eagle  16 pharmacies met the security requirement at the  17 store level?  18 MR. ROTTINGHAUS: Objection.  19 Foundation.  20 THE WITNESS: Yes.  21 BY MR. BARNES:  22 Q. Do you understand that part of the  23 security requirement and whether somebody is in  24 compliance with that security requirement is  25 dependent upon a multitude of factors, including</p>	<p style="text-align: right;">Page 221</p> <p>1 A. It was just some IIIs, IVs and Vs.  2 Q. Now, were all of the Giant Eagle  3 pharmacies located inside the Giant Eagle grocery  4 stores?  5 A. Yes.  6 Q. And did the grocery stores themselves  7 have security aspects?  8 MR. ROTTINGHAUS: Objection. Relevance.  9 BY MR. BARNES:  10 Q. Such as cameras.  11 A. Yes. The store had security. The  12 actual pharmacy within the store had its own  13 gates, locking gate, cameras, alarm system, motion  14 sensing alarm systems.  15 Q. Going back to the security requirement,  16 did you also understand that one aspect of whether  17 that security requirement was met was whether or  18 was the nature of the controls by the registrant  19 overall against theft and diversion?  20 MR. ROTTINGHAUS: Objection. Leading.  21 THE WITNESS: Can you restate the  22 question?  23 BY MR. BARNES:  24 Q. Sure. In terms of the overall security  25 requirement, things that the DEA would consider,</p>



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1 did you understand that to include an overall  
2 evaluation of the adequacy of the controls at the  
3 HBC and store levels?  
4 A. Yes.  
5 Q. Do you understand that the regulation  
6 that you were shown by plaintiffs' counsel is just  
7 one small aspect of the overall security  
8 requirement?  
9 A. Correct, yes.  
10 Q. And do you understand that 1301.74  
11 requires that HBC operated a system to disclose  
12 suspicious orders?  
13 A. Yes.  
14 Q. Did you ever understand it to require  
15 any type of formulaic or threshold system?  
16 A. No.  
17 Q. At the warehouse level, I just want to  
18 explore what you do understand. You mentioned  
19 cages, things of that nature.  
20 Were these control IIIs, IVs, and Vs kept in  
21 locked cages?  
22 A. Yes, per the DEA requirements of  
23 specifically around the cage.  
24 Q. You said the DEA actually reviewed the  
25 HBC security system before it opened and started

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1 distributing control IIIs, IVs, and Vs?  
2 A. Yes, before they approved our DEA  
3 license.  
4 Q. And did they come in from time to time  
5 to reaudit and inspect?  
6 A. Yes.  
7 MR. ROTTINGHAUS: Objection. Leading.  
8 BY MR. BARNES:  
9 Q. At any time, did the DEA ever advise HBC  
10 that there was anything lacking in their control  
11 system?  
12 MR. ROTTINGHAUS: Objection.  
13 Foundation.  
14 THE WITNESS: There was nothing pointed  
15 out within our security measures that didn't meet  
16 the requirements.  
17 BY MR. BARNES:  
18 Q. Did Giant Eagle ever distribute to  
19 internet pharmacies?  
20 A. No.  
21 Q. By Giant Eagle I'm including HBC.  
22 A. No, we did not.  
23 Q. But you've also told us that you don't  
24 really know the details -- you said the pickers  
25 were regulated in terms of access to the cages; is

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1 that right?  
2 A. Yes.  
3 Q. But the detailed procedures of how they  
4 actually did their picking and the forms they  
5 filled out, that wasn't part of your job?  
6 A. No, it was not.  
7 Q. Were inventories conducted at HBC?  
8 A. Yes.  
9 Q. Regular inventories?  
10 A. Yes.  
11 Q. Was the HBC warehouse overseen by Giant  
12 Eagle's internal audit and accounting department?  
13 MR. ROTTINGHAUS: Objection. Leading.  
14 THE WITNESS: Yes.  
15 BY MR. BARNES:  
16 Q. You were asked a lot of questions today  
17 about the development of a so-called SOM system in  
18 2013 or 2014. Do you recall that?  
19 A. Yes.  
20 Q. Was that threshold system I'll call it,  
21 was that developed because there was any view that  
22 the currently existing controls that you describe  
23 were viewed as inadequate in any way?  
24 A. No. They were put together as an  
25 enhancement to the current process.

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1 Q. And that process, that threshold process  
2 began in or about 2013?  
3 A. About per my recollection.  
4 Q. And were enhancements made to that  
5 process over time?  
6 A. Yes.  
7 Q. Are you familiar with the CSOS system?  
8 A. Yes.  
9 Q. Is that one of the enhancements?  
10 A. CSOS was a system that just assisted in  
11 ordering CII through at the time it was the  
12 wholesaler process, but it was -- it helped us --  
13 it was an enhancement for ordering CIIs, so from  
14 that perspective.  
15 Q. Are you familiar with Supply Logics?  
16 A. Yes.  
17 Q. Was that an enhancement to the threshold  
18 system?  
19 A. Yes.  
20 Q. What did Supply Logics allow you to do?  
21 A. Supply Logics had a couple components to  
22 it that could allow us to audit and monitor. So  
23 it would -- I can't remember. I'm trying to  
24 visualize what this report looked like, but it  
25 would -- it basically would pull out -- allow us

<p style="text-align: right;">Page 226</p> <p>1 to evaluate, investigate stores that were -- you 2 know, that stuck out in some fashion. 3 Q. At the pharmacy level you talked a 4 little bit about some of the controls at that 5 level. 6 I just want to ask you generally. Were all 7 of the pharmacies staffed by licensed and trained 8 pharmacists? 9 A. Yes. 10 Q. Were they staffed by trained 11 technicians? 12 A. Yes. 13 Q. Were all of those individuals trained 14 with respect to diversion? 15 A. There was a component of the training -- 16 I don't know specifically, but I know there were 17 some discussions in the training around that. 18 Q. Were there policies and procedures, 19 written policies and procedures in place at the 20 pharmacy level that assisted the pharmacists and 21 technicians with respect to filling appropriate 22 prescriptions? 23 A. Yes. 24 Q. Are you familiar with the DEA pharmacist 25 manual?</p>	<p style="text-align: right;">Page 228</p> <p>1 prescription dispensing across the whole state. 2 Q. Is that something to your knowledge the 3 Giant Eagle pharmacists would access when filling 4 a prescription as necessary? 5 A. Yes, as required. 6 MR. ROTTINGHAUS: I didn't want to 7 interrupt. I'm interposing an objection on 8 relevance grounds. 9 BY MR. BARNES: 10 Q. Did the pharmacists or do the pharmacies 11 report their transactions to the DEA? I think you 12 already testified to that concerning the ARCOS 13 system. 14 A. The ARCOS was one way. We also reported 15 dispensings through like the OARRS system and all 16 that. That was done at corporate level, but all 17 that information about the stores came from 18 corporate that was provided. 19 Q. Did Giant Eagle have written fraud, 20 waste and abuse guidelines and procedures that 21 were at the pharmacies? 22 A. Yes. 23 Q. The record keeping at the pharmacies, 24 are you familiar with the term controlled 25 substance boxes that maintain records?</p>
<p style="text-align: right;">Page 227</p> <p>1 MR. ROTTINGHAUS: Objection. Relevance. 2 THE WITNESS: I may have seen it. I 3 can't recall. 4 BY MR. BARNES: 5 Q. Do you recall if that was located at the 6 pharmacies or accessible by the pharmacies? 7 A. Yeah. That should have been at each 8 location, I believe. 9 Q. Did Giant Eagle have controlled 10 substance dispensing guidelines? 11 A. There were guidelines around controlled 12 substances, yes. 13 Q. Did it include things like red flags, 14 things to look out for before dispensing and 15 filling a prescription? 16 A. Yes. 17 MR. ROTTINGHAUS: Are you talking about 18 at the pharmacy level or HBC level? 19 MR. BARNES: Pharmacy level. 20 BY MR. BARNES: 21 Q. Are you familiar with the so-called 22 OARRS system? 23 A. Yes. 24 Q. What is that? 25 A. It's an Ohio system to monitor</p>	<p style="text-align: right;">Page 229</p> <p>1 A. Yes. 2 Q. Is that something when you were a PDL 3 you had to make sure every pharmacy complied with? 4 A. The boxes either came out like right 5 when I was going onto my other position, the 6 physical boxes that you're talking about. It 7 was -- I didn't physically do that as a PDL. I 8 think it came out just as I went on to my next 9 position. 10 Q. But in your next position, did you learn 11 what those were? 12 A. Yes. 13 Q. What were they for generally? 14 A. Just to kind of keep everything in one 15 place around controlled substances. 16 Q. Would those include DEA forms, records 17 of invoices and transactions on controlled 18 substances? 19 A. DEA 222 forms, invoices, anything 20 regarding controlled substances. 21 Q. At the pharmacy level, were the 22 controlled substances handled any differently than 23 any other drug? 24 A. Were they handled differently? Yes. 25 Q. Were they kept in a secure location?</p>

<p style="text-align: right;">Page 230</p> <p>1 A. Any of the Schedule II were kept in a                  2 locked location that only the pharmacist had                  3 access to.                  4 Q. And who could fill a controlled                  5 substance II level prescription at the pharmacies?                  6 Could a tech do it, or was it a pharmacist                  7 required?                  8 MR. ROTTINGHAUS: Objection. Relevance.                  9 THE WITNESS: A pharmacist was required                  10 to do that process.                  11 BY MR. BARNES:                  12 Q. And how were incoming orders of                  13 controlled substances handled? Were there special                  14 procedures for those?                  15 A. Yeah. We had formalized processes or                  16 procedures drawn up on how to receive an order,                  17 and it even broke out controlled substances and                  18 how to handle those orders specifically.                  19 Q. Were those orders checked against                  20 invoices and immediately logged into inventory?                  21 A. Yes.                  22 Q. Were there regular and then perpetual                  23 inventories of all controlled substances?                  24 A. Yes. There were Schedule IIIs through                  25 Vs were part of our perpetual. The CIIs were done</p>	<p style="text-align: right;">Page 232</p> <p>1 MR. ROTTINGHAUS: Objection. Leading.                  2 BY MR. BARNES:                  3 Q. Did the Ohio -- not only Ohio, but did                  4 the state Boards of Pharmacy come into the                  5 pharmacies on a random and unannounced basis and                  6 perform surprise inspections on a routine basis?                  7 A. Yes.                  8 Q. Were there ever any problems that you                  9 can recall involving controlled substances or                  10 opioids?                  11 A. Nothing specific to an inspection                  12 regarding those products.                  13 Q. And you were a PDL for a while?                  14 A. Yes.                  15 Q. And you had a region where you regularly                  16 visited all your stores?                  17 A. Yes.                  18 Q. Were all of the pharmacies supervised by                  19 a PDL in some way?                  20 A. Yes.                  21 Q. And did they regularly visit the store                  22 and conduct audits from time to time?                  23 A. Yes.                  24 Q. And did that include controlled                  25 substance procedures?</p>
<p style="text-align: right;">Page 231</p> <p>1 in a manual fashion. So we're talking 2009 to                  2 '14. It became part of the perpetual throughout                  3 that time period.                  4 Q. You mentioned monthly narc audits. Was                  5 that for all controlled substances?                  6 A. Yes.                  7 Q. And were there also annual controlled                  8 substance inventories on top of the monthly narc                  9 audits?                  10 MR. ROTTINGHAUS: Objection. Leading.                  11 THE WITNESS: I'm sorry. Say that                  12 again.                  13 BY MR. BARNES:                  14 Q. In addition to the monthly narc audits,                  15 were there regular annual inventories?                  16 MR. ROTTINGHAUS: Same objection.                  17 THE WITNESS: Yeah. We were required to                  18 do an every two-year inventory. We actually did                  19 ours on an annual basis.                  20 BY MR. BARNES:                  21 Q. While controlled substance prescriptions                  22 were being filled, were there special accounting                  23 procedures employed to maintain control over every                  24 pill?                  25 A. Yes.</p>	<p style="text-align: right;">Page 233</p> <p>1 A. Yes.                  2 Q. Did the PDL supervise training at the                  3 pharmacies?                  4 A. Not directly supervise, but ensure that                  5 all team members within that unit were trained.                  6 Q. Did the PDLs work with law enforcement                  7 and the Board of Pharmacy to deter diversion and                  8 prosecute criminals?                  9 MR. ROTTINGHAUS: Objection. Leading.                  10 THE WITNESS: Yes.                  11 BY MR. BARNES:                  12 Q. Did the PDLs exercise red flag awareness                  13 training in the pharmacies?                  14 A. Yes.                  15 Q. Would the PDLs have an opportunity to                  16 observe while in these pharmacies suspicious                  17 activity, such as long lines out the door, things                  18 of that nature?                  19 A. Yes.                  20 Q. And I think you said when you were a                  21 PDL, you would assist from time to time with                  22 threshold increases if the stores needed them;                  23 right?                  24 A. When I was a PDL -- that was after I was                  25 a PDL when I was actually having the PDLs do the</p>

<p style="text-align: right;">Page 234</p> <p>1 investigation.</p> <p>2 Q. You were shown some exhibits that you</p> <p>3 requested McKesson from time to time to increase</p> <p>4 certain store's thresholds?</p> <p>5 A. Yes.</p> <p>6 Q. Do you recall that?</p> <p>7 A. Yes.</p> <p>8 Q. When you would do that, would it be</p> <p>9 based upon a legitimate business need?</p> <p>10 MR. ROTTINGHAUS: Objection. Leading.</p> <p>11 THE WITNESS: Yeah, yes, per the request</p> <p>12 of McKesson. They would ask for the business</p> <p>13 reason, and I would investigate each store level</p> <p>14 to see what was going on at that store from a</p> <p>15 business perspective and provide them the</p> <p>16 information they requested.</p> <p>17 BY MR. BARNES:</p> <p>18 Q. Did you do any follow-up as requested?</p> <p>19 A. As requested, yes.</p> <p>20 Q. The information that you provided to</p> <p>21 McKesson with respect to increases, did you</p> <p>22 believe it to be truthful and accurate and in good</p> <p>23 faith?</p> <p>24 A. Yes.</p> <p>25 Q. Did the pharmacies have loss prevention</p>	<p style="text-align: right;">Page 236</p> <p>1 MR. ROTTINGHAUS: Objection. Relevance.</p> <p>2 THE WITNESS: Yes. Over the years, they</p> <p>3 were doing that.</p> <p>4 BY MR. BARNES:</p> <p>5 Q. You were asked a lot of questions by</p> <p>6 plaintiffs' counsel concerning what was in writing</p> <p>7 or not in writing from 2009 to 2014.</p> <p>8 At any time, to your knowledge, was Giant</p> <p>9 Eagle ever advised that any policy needed to be</p> <p>10 put in writing to meet the security requirement?</p> <p>11 A. Through my discussions with the DEA,</p> <p>12 nothing was ever told to me that we were deficient</p> <p>13 in any way or needed any other documentation. So</p> <p>14 no.</p> <p>15 Q. You made reference to, I think, a closed</p> <p>16 system of self distribution.</p> <p>17 A. Yes.</p> <p>18 Q. Do you remember that? Could you explain</p> <p>19 what you meant by that?</p> <p>20 A. When we take possession of the product</p> <p>21 from the manufacturer, we actually own that</p> <p>22 product all the way to the patient level. So</p> <p>23 we're self distributing within -- the product</p> <p>24 stays within the same company all the way through</p> <p>25 until it hits the patient, versus a wholesaler</p>
<p style="text-align: right;">Page 235</p> <p>1 coverage?</p> <p>2 A. Yes.</p> <p>3 Q. With experienced law enforcement</p> <p>4 investigators?</p> <p>5 A. Yes.</p> <p>6 Q. Did the investigators spend a lot of</p> <p>7 time in the pharmacies?</p> <p>8 A. Yes.</p> <p>9 Q. Did they work with local police and the</p> <p>10 Boards of Pharmacy and the DEA to prevent</p> <p>11 diversion?</p> <p>12 MR. ROTTINGHAUS: Objection. Leading.</p> <p>13 THE WITNESS: They did, yes.</p> <p>14 BY MR. BARNES:</p> <p>15 Q. Do you recall, did Giant Eagle</p> <p>16 pharmacists employ techniques to prevent suspected</p> <p>17 diversion by writing things on prescriptions or</p> <p>18 notifying each other about potential suspects?</p> <p>19 A. Yes. They would send -- notify local</p> <p>20 stores of some potential issue that they're</p> <p>21 seeing, and they would definitely alert the other</p> <p>22 locations and their PDL.</p> <p>23 Q. Do you recall the loss prevention</p> <p>24 department increasing security cameras in the</p> <p>25 pharmacies as a safety precaution?</p>	<p style="text-align: right;">Page 237</p> <p>1 arrangement where the wholesaler hands it off to</p> <p>2 the store, and then they kind of lose sight of it</p> <p>3 at that point.</p> <p>4 Giant Eagle's system was more closed than the</p> <p>5 wholesaler arrangement.</p> <p>6 Q. To your knowledge, did Giant Eagle at</p> <p>7 all times know all of its pharmacies and who was</p> <p>8 running their pharmacies?</p> <p>9 MR. ROTTINGHAUS: Objection. Leading;</p> <p>10 foundation.</p> <p>11 THE WITNESS: Absolutely.</p> <p>12 BY MR. BARNES:</p> <p>13 Q. You mentioned the so-called VAWD</p> <p>14 certification for the warehouse. I understood</p> <p>15 your testimony to be that one of the main or sole</p> <p>16 emphasis for putting things in writing was to get</p> <p>17 the VAWD certification?</p> <p>18 A. Yes. There was a requirement of VAWD to</p> <p>19 have everything in a format.</p> <p>20 Q. Prior to the VAWD process, nobody had</p> <p>21 insisted upon anything being in writing with</p> <p>22 respect to suspicious order monitoring; is that</p> <p>23 correct?</p> <p>24 MR. ROTTINGHAUS: Objection. Vague as</p> <p>25 to anybody or nobody.</p>



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1 THE WITNESS: There was nobody that  
2 asked us to do any further before that time  
3 period.  
4 BY MR. BARNES:  
5 Q. Including the DEA?  
6 A. Including the DEA, yes.  
7 Q. You were asked a few questions about  
8 incidents of diversion. I take it in a 200-store  
9 plus chain -- how many pharmacists would you have  
10 new that size of a chain?  
11 A. Over 700.  
12 Q. From time to time, would a pharmacist or  
13 a pharmacy employee be suspected of theft or  
14 diversion and be investigated?  
15 A. Yes.  
16 Q. How common of an occurrence was that?  
17 A. I wouldn't call it a common occurrence,  
18 but any time it happened, it seemed like the worst  
19 thing in the world. So it kind of drew a  
20 spotlight. So it did happen. But it wasn't what  
21 I would call a common occurrence.  
22 Q. Was it a rare occurrence?  
23 A. I would call it more of a rare  
24 occurrence.  
25 Q. Were those reported to the state boards

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1 or the police as necessary?  
2 A. As required by each particular state we  
3 handled it further.  
4 Q. Would Giant Eagle's controls have worked  
5 in those instances?  
6 MR. ROTTINGHAUS: Objection.  
7 Insufficient foundation; leading.  
8 THE WITNESS: Say that again.  
9 BY MR. BARNES:  
10 Q. Would Giant Eagle's internal controls  
11 have worked in those instances --  
12 A. Yes.  
13 Q. -- in terms of discovering something is  
14 amiss, something is missing?  
15 MR. ROTTINGHAUS: Same objection.  
16 THE WITNESS: Yes. They were discovered  
17 within our current procedures. That's how they  
18 were discovered.  
19 BY MR. BARNES:  
20 Q. You were asked a lot of questions about  
21 whether or not you shipped or Giant Eagle shipped  
22 from the warehouse to its own pharmacies before an  
23 order of interest was determined to be  
24 nonsuspicious. Do you recall that?  
25 A. Yes.

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1 Q. Was it your understanding that it was  
2 okay to ship in those circumstances?  
3 MR. ROTTINGHAUS: Objection. Leading.  
4 THE WITNESS: Yes. Since we were a self  
5 distributor, the product was still within our  
6 supply chain. So you're saying if they exceeded  
7 this number, we would let it go to the store and  
8 then we can investigate it and we still had  
9 control over that product and could retrieve it at  
10 any point in time.  
11 BY MR. BARNES:  
12 Q. So it was going from the warehouse shelf  
13 to the pharmacy shelf?  
14 A. Yes.  
15 Q. So as that order was being investigated,  
16 if there was a problem, could you retrieve that  
17 product?  
18 A. Yes.  
19 MR. ROTTINGHAUS: Objection. Leading.  
20 BY MR. BARNES:  
21 Q. One of the controls you mentioned at the  
22 warehouse level was the so-called movement  
23 reports. Do you recall that?  
24 A. Yes.  
25 Q. Is that part of the system that you've

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1 described for us, system of controls that would be  
2 able to detect the suspicious order?  
3 A. It was part of the overall system,  
4 another one of the reports that we could utilize  
5 to flag discrepancies.  
6 Q. You were asked some questions right  
7 after lunch about whether you could say with  
8 100 percent certainty that 100 percent of every  
9 prescription that Giant Eagle ever filled was  
10 perfectly valid. Do you recall those questions?  
11 A. Yes.  
12 Q. How many prescriptions does Giant Eagle  
13 fill in any given year, to your recollection?  
14 A. I think it's, I'm going to say, over  
15 14 million. I don't know if that -- I think it's  
16 over 20 million.  
17 Q. Over 20 million prescriptions. You  
18 can't say that every one was perfectly legitimate  
19 sitting here today?  
20 A. No, I can't.  
21 Q. But can you say that those prescriptions  
22 would have been distributed pursuant to Giant  
23 Eagle dispensing policies?  
24 A. Yes.  
25 Q. By licensed pharmacists?

<p style="text-align: right;">Page 242</p> <p>1 A. Yes.</p> <p>2 Q. Who were required to exercise their</p> <p>3 professional judgment when filling the</p> <p>4 prescription?</p> <p>5 MR. ROTTINGHAUS: Objection. Leading;</p> <p>6 insufficient foundation.</p> <p>7 THE WITNESS: Yes.</p> <p>8 BY MR. BARNES:</p> <p>9 Q. You were asked some questions about</p> <p>10 Exhibit 15. Do you remember that exhibit where</p> <p>11 the question was how can you respond so quickly?</p> <p>12 Do you remember that? It was within an hour,</p> <p>13 Eastern time versus Central Standard Time.</p> <p>14 A. Yes.</p> <p>15 Q. The questions were, well, how could you</p> <p>16 determine in that short timeframe whether the</p> <p>17 prescription was from doctor shopping or invalid</p> <p>18 in some way; is that right?</p> <p>19 A. Correct.</p> <p>20 Q. But that prescription would have already</p> <p>21 been dispensed; correct?</p> <p>22 A. Yes.</p> <p>23 Q. By a licensed pharmacist?</p> <p>24 A. Yes.</p> <p>25 Q. So did you have any comfort at that</p>	<p style="text-align: right;">Page 244</p> <p>1 format so we could apply for VAWD certification.</p> <p>2 Q. I think you've told us to your</p> <p>3 knowledge -- correct me if I'm wrong -- with</p> <p>4 respect to following up on any orders of interest,</p> <p>5 you're not aware of any DEA requirement to keep</p> <p>6 any file or record at all; is that right?</p> <p>7 A. No. There's nothing stated in the</p> <p>8 document, Controlled Substances Act that stated</p> <p>9 that.</p> <p>10 Q. Exhibit 25, this is the plaintiff</p> <p>11 prepared exhibit. You said this was by pill. Is</p> <p>12 that how you read dosage units?</p> <p>13 MR. ROTTINGHAUS: Objection.</p> <p>14 Insufficient foundation.</p> <p>15 THE WITNESS: Yes. I mean, that's my</p> <p>16 assumption based on the way it's described as</p> <p>17 dosing unit.</p> <p>18 BY MR. BARNES:</p> <p>19 Q. When you were explaining that, you</p> <p>20 seemed to hesitate about how you would count the</p> <p>21 distribution of HCP products.</p> <p>22 Is there a different way of doing it if you</p> <p>23 were going to analyze it?</p> <p>24 A. Well, a lot of it is which particular</p> <p>25 product was it. There's a few different</p>
<p style="text-align: right;">Page 243</p> <p>1 level that the prescriptions had gone through red</p> <p>2 flag analysis before being dispensed?</p> <p>3 A. Yes.</p> <p>4 MR. ROTTINGHAUS: Objection. Leading.</p> <p>5 BY MR. BARNES:</p> <p>6 Q. And did you have working knowledge on a</p> <p>7 day-to-day basis in this time period of store</p> <p>8 volumes vis-a-vis each other, the type of business</p> <p>9 they were doing?</p> <p>10 A. Yes, absolutely.</p> <p>11 Q. So were you able to respond to these</p> <p>12 requests on a fairly rapid basis?</p> <p>13 A. Yes. I had all the reports at my</p> <p>14 fingertips.</p> <p>15 Q. Prior to Exhibit 24 -- take a look at</p> <p>16 24. These were the written policies. You were</p> <p>17 asked some questions about prior to the</p> <p>18 formalization and writing down of these policies.</p> <p>19 Did Giant Eagle have a system of controls that</p> <p>20 would detect suspicious orders?</p> <p>21 A. Yes.</p> <p>22 Q. Were you formalizing these policies in</p> <p>23 or about 2014 because of any DEA requirement, or</p> <p>24 was it for some other requirement?</p> <p>25 A. This was for formalizing it in this</p>	<p style="text-align: right;">Page 245</p> <p>1 hydrocodone-containing products. So if it's to</p> <p>2 tablet level, how many units, how many bottles.</p> <p>3 You really want to look at market share</p> <p>4 information. So does Giant Eagle pharmacies as a</p> <p>5 percent of their business dispense a higher</p> <p>6 percentage of hydrocodone than other pharmacies,</p> <p>7 what's the market share of hydrocodone versus</p> <p>8 other prescriptions.</p> <p>9 I mean, there's a lot of different things</p> <p>10 that would go into analyzing what that number</p> <p>11 really means.</p> <p>12 Q. And would you say it's misleading in any</p> <p>13 way to just count pills and say are you surprised</p> <p>14 at this number?</p> <p>15 MR. ROTTINGHAUS: Objection. Leading;</p> <p>16 insufficient foundation.</p> <p>17 THE WITNESS: I can't really use this.</p> <p>18 I wouldn't use this information for any business</p> <p>19 analysis by itself or any other kind of evaluation</p> <p>20 without seeing other correlating data regarding</p> <p>21 other chains and/or pharmacies.</p> <p>22 BY MR. BARNES:</p> <p>23 Q. Assume for the sake of argument, I</p> <p>24 really don't know, but let's just assume that</p> <p>25 these number of pills counts is correct. To whom</p>

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1 were these pills given to? What happened to these  
2 pills?  
3 MR. ROTTINGHAUS: Objection.  
4 Insufficient foundation.  
5 THE WITNESS: I can't answer that.  
6 BY MR. BARNES:  
7 Q. They would have gone through the  
8 pharmacies?  
9 A. They would have gone out through valid  
10 prescriptions to some patients.  
11 Q. And after they were distributed to  
12 patients pursuant to valid prescriptions, do you  
13 know what happened to them?  
14 A. Not at that point.  
15 MR. BARNES: I have nothing further.  
16 RE-EXAMINATION  
17 BY MR. ROTTINGHAUS:  
18 Q. I just have a couple follow-up  
19 questions, and I'll let you get out of here. Are  
20 you okay going?  
21 A. Yep.  
22 Q. It will just be a few minutes I think.  
23 From the time that medications left the HBC  
24 warehouse to getting into the pharmacies to the  
25 time they were actually dispensed, I want a better

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1 understanding of how long that process sometimes  
2 took and sometimes didn't take.  
3 A. Sure.  
4 Q. Were there times where a pharmacy was  
5 ordering medications that had to be shipped out  
6 that day or the next day in order to fulfill  
7 prescriptions that needed to be filled in the next  
8 couple of days?  
9 A. It could have been. It would depend on  
10 the particular drug.  
11 Q. Here's why I ask. I've gone to the  
12 pharmacy needing a prescription of some sort of  
13 antibiotic. They say we don't have it, but we'll  
14 call our distributor. We'll have it here in the  
15 next 24 hours.  
16 Were there situations where Giant Eagle  
17 pharmacies could contact HBC and say, hey, we need  
18 a certain prescription; we need it here within 24  
19 hours because we have customers that are waiting  
20 on it?  
21 A. HBC didn't operate where the store could  
22 call. Everything was managed by electronic order  
23 points. So it was based on a prescription going  
24 out and then the product came back to replace what  
25 was dispensed.

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1 So a lot of it would -- I can't really answer  
2 because a lot of it would depend on the movement  
3 of that particular product.  
4 Q. Is it -- well, let me ask it this way:  
5 Do you know whether there were occasions when  
6 hydrocodone combination products were ordered and  
7 shipped from the HBC warehouse and dispensed by  
8 the pharmacy within 48 hours?  
9 A. I don't know of specific examples. I  
10 mean, I can't -- I can't really answer that one.  
11 Q. You probably know what the average time  
12 was that medication sat on the shelves in the  
13 stores versus sitting in the warehouse; right?  
14 A. I used to know that type of information.  
15 I'm not going to throw an estimate out.  
16 Q. Is it possible that within 10 days of a  
17 medication, specifically a controlled substance,  
18 being shipped by the HBC warehouse to a pharmacy,  
19 that the medication would make its way to the  
20 pharmacy and then make its way out of the  
21 pharmacy?  
22 A. It could if there's a valid prescription  
23 requiring that, yes.  
24 Q. It didn't have to sit in the pharmacy  
25 for three or four days before it got dispensed,

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1 did it?  
2 A. No. We had other -- we did have the  
3 ability if we thought there was something that we  
4 wanted to look at to tell a store to quarantine  
5 that product and hold it off to the side until we  
6 investigated.  
7 Q. But unless you told them to do that,  
8 they wouldn't normally do that, would they?  
9 A. Not unless there was some kind of reason  
10 to do so.  
11 Q. Now, just to make sure I'm correct,  
12 there's been a lot of discussions about  
13 thresholds, whether they had come from McKesson or  
14 thresholds from the HBC system itself. It's my  
15 understanding that prior to October of 2013, there  
16 were no thresholds generated on a daily basis for  
17 anyone at Giant Eagle or HBC to look at; is that  
18 correct?  
19 MS. CHARLES: Object to form.  
20 THE WITNESS: What's the timeframe  
21 again?  
22 BY MR. ROTTINGHAUS:  
23 Q. Let me ask it again. It's my  
24 understanding, and correct me if I'm wrong, but  
25 it's my understanding that prior to October of

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1 '13, there was no system in place at HBC to  
2 generate a daily threshold report to know what  
3 medications might be exceeding the 12-month  
4 average of the prior year?  
5 A. Other than the timeframe where you  
6 showed the reports auto generated from Kayla  
7 Voelker, I believe that's when those reports  
8 specifically started coming out.  
9 Q. So prior to October '13, October of  
10 2013, there were no daily threshold reports;  
11 correct?  
12 A. I don't know the date timeframe, but,  
13 yeah, there was a period sometime around that time  
14 that we didn't have anything in place.  
15 Q. Between 2009 and 2014, sitting here  
16 today, you're not aware of any orders of  
17 hydrocodone combination products that were  
18 determined to be suspicious orders?  
19 A. I cannot recall any specific ones.  
20 Q. Do you know one way or the other whether  
21 there were any?  
22 A. I don't. I can't confirm that. I don't  
23 want to say one way or another because I just  
24 don't know.  
25 MR. ROTTINGHAUS: That's all I have.

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1 RE-EXAMINATION  
2 BY MR. BARNES:  
3 Q. Just one follow-up question. After the  
4 threshold daily report was instituted in or about  
5 October of '13, did it reveal anything with  
6 respect to the adequacy of the controls that were  
7 already in place?  
8 A. Based on --  
9 MR. ROTTINGHAUS: Let me make a quick  
10 objection. Insufficient foundation.  
11 But go ahead.  
12 THE WITNESS: Based on the limited  
13 number of suspicious orders that were generated  
14 afterwards, I would say, no, it didn't really add  
15 a whole lot to the process. But, again, we looked  
16 at it as an enhancement to what we had in place,  
17 an extra stopgap.  
18 BY MR. BARNES:  
19 Q. Did it indicate one way or the other  
20 whether the controls in place were adequate?  
21 A. I would evaluate it --  
22 MR. ROTTINGHAUS: Objection. Leading.  
23 THE WITNESS: I would evaluate it to  
24 show that we did have adequate controls in place  
25 from the beginning.

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1 BY MR. BARNES:  
2 Q. Even after you instituted -- you  
3 enhanced it with the threshold system?  
4 A. Yes.  
5 MR. BARNES: Nothing further.  
6 RE-EXAMINATION (Continued)  
7 BY MR. ROTTINGHAUS:  
8 Q. Prior to 2014, was there ever a system  
9 in place where anyone at HBC was instructed when  
10 they had an order that exceeded thresholds to ask  
11 any particular questions of the pharmacy to find  
12 out and do a little more due diligence as to why  
13 the order was exceeding threshold?  
14 A. When you say threshold, HBC wasn't  
15 looking at threshold information. They would look  
16 at unusual orders, being a large size, and that's  
17 where they would ask the questions from.  
18 Q. And was there ever at any point in time  
19 to your knowledge any documented instruction to  
20 anyone at or on behalf of HBC as to what specific  
21 questions they should be asking of pharmacies when  
22 they have an order that they thought was  
23 extraordinarily large?  
24 A. Their process was to notify myself or  
25 someone else at corporate to do the investigation

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1 for them.  
2 Q. And then was it indeed your  
3 responsibility at that point to do the  
4 investigation?  
5 A. Me, or throughout this timeframe, there  
6 may have been others that were responsible for  
7 following up.  
8 Q. You or Mr. Millward?  
9 A. It could have been Mr. Millward, yes.  
10 Q. Mr. Chunderlik?  
11 A. Yes.  
12 Q. Our Mr. Bianco?  
13 A. Correct.  
14 Q. Anyone else?  
15 A. Dan Beiter potentially. I don't know if  
16 it ever came up with them.  
17 MR. ROTTINGHAUS: Thank you.  
18 MR. BARNES: Thank you.  
19 THE VIDEOGRAPHER: Off the record 3:04.  
20 (Whereupon, at 3:04 p.m., the taking of  
21 the instant deposition ceased.)  
22  
23  
24  
25



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1 COMMONWEALTH OF PENNSYLVANIA )  
2 COUNTY OF ALLEGHENY ) SS:  
3 C E R T I F I C A T E  
4 I, Ann Medis, Registered Professional  
5 Reporter, Certified Livenote Reporter and Notary  
6 Public within and for the Commonwealth of  
7 Pennsylvania, do hereby certify:  
8 That GREGORY CARLSON, the witness whose  
9 deposition is hereinbefore set forth, was duly  
10 sworn by me and that such deposition is a true  
11 record of the testimony given by such witness.  
12 I further certify the inspection,  
13 reading and signing of said deposition were not  
14 waived by counsel for the respective parties and  
15 by the witness.  
16 I further certify that I am not related  
17 to any of the parties to this action by blood or  
18 marriage and that I am in no way interested in the  
19 outcome of this matter.  
20 IN WITNESS WHEREOF, I have hereunto set  
21 my hand this 11th day of January, 2019.  
22

\_\_\_\_\_  
Notary Public

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1 COMMONWEALTH OF PENNSYLVANIA ) E R R A T A  
2 COUNTY OF ALLEGHENY ) S H E E T  
3 I, GREGORY CARLSON, have read the foregoing  
4 pages of my deposition given on January 8, 2019,  
5 and wish to make the following, if any,  
6 amendments, additions, deletions or corrections:

7 Page Line Change and reason for change:  
8 \_\_\_\_\_  
9 \_\_\_\_\_  
10 \_\_\_\_\_  
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12 \_\_\_\_\_  
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16 \_\_\_\_\_  
17 \_\_\_\_\_  
18

19 In all other respects, the transcript is true and  
20 correct.  
21

\_\_\_\_\_  
GREGORY CARLSON

22  
23 \_\_\_\_\_ day of \_\_\_\_\_, 2019.  
24

\_\_\_\_\_  
Notary Public  
25